

**MINUTES OF THE
CITY PLANNING COMMISSION
J. MARTIN GRIESEL CONFERENCE ROOM
TWO CENTENNIAL PLAZA – SUITE 700
805 CENTRAL AVENUE**

**November 4, 2005
9:00AM**

CALL TO ORDER

Mr. Faux called the meeting to order at 9:05 am.

Commission Members: Caleb Faux, Terry Hankner, Jacqueline McCray, Donald Mooney,
Dave Rager and James Tarbell

Absent: Curt Paddock

Community Development and Planning Staff:

Margaret Wuerstle, Renee Christon, Adrienne Cowden, Skip Forwood, Caroline Kellam, Rodney Ringer and Jennifer Walke

Law Department: Dottie Carmen

APPROVAL OF MINUTES

Submission of the minutes from the October 7, 2005 Planning Commission meeting for approval.

Motion: Jacquelyn McCray motioned approval of minutes.
Second: Dave Rager
Ayes: Faux, Hankner, McCray, Mooney, Rager and Tarbell
Nays: None, **motion carried**

CONSENT ITEMS

ITEM #1 A report and recommendation on the granting of a twenty-foot easement for private storm water sewer across Jonathan Avenue in Evanston, in favor of the property owned by Jonathan Meadows LLC.

ITEM #2 An ordinance authorizing the sale of 3655 Alaska Avenue to Maudell Birks, which real property is no longer needed for any municipal purpose.

ITEM #3 A report and recommendation on an Ordinance Canceling Lease and Authorizing Execution of license Agreement for Sawyer Point Parking Lot.

Motion: Donald Mooney motioned approval of Consent Items 1-3
Second: Terry Hankner
Ayes: Faux, Hankner, McCray, Mooney, Rager and Tarbell
Nays: None, **motion carried**

DISCUSSION ITEM

ITEM #21 **By Leave** – An ordinance authorizing the City Manager to enter into the Contract for Sale of Land for Private Redevelopment for property at Hamilton Avenue and North Bend Road with Al Neyer, Inc.

Tom Jackson, Development Officer, presented this report

BACKGROUND:

Under the terms of a proposed Contract with Al Neyer Inc. (Neyer), the City will purchase the vacant properties located at 6210 Hamilton Avenue (Shuller's Wigwam site) and 1530 West North Bend Road (Masonic Eastern Star Home or "MESH" site). Upon Neyer's satisfaction of the terms of the Contract, the two sites will then be sold to Neyer for a nominal cost to support the mixed-use Linden Park Commons redevelopment project. The contract's pre-sale conditions include:

- Execution of a mutually agreeable purchase agreement for the Kroger site (1606 West North Bend Road);
- Submission of Construction Plans for the Property and their approval by the City; and,
- The submission of evidence of sufficient equity capital and commitments for mortgage financing.

The Linden Park Commons project will be developed in two phases as follows:

Phase 1 Improvements

- Shuller's Wigwam site (approx. 2.3 acres) and MESH site (approx. 4.1 acres)
- 18 condominium units (28,500 sq ft)
- 10 townhome units (18,000 sq ft)
- 24 single-family homes
- 14, 250 sq ft of retail space
- surface parking

Phase 2 Improvements

- Kroger site (approx. 2.1 acres)
- 18 condominium units (28,500 sq ft.)
- 29,250 sq ft of retail space
- Surface parking

The appraised fair market value of the two sites is \$1,800,000. However, the sites will be sold for \$1.00 in consideration of the public benefits associated with the proposed residential and retail development, and the elimination of blighted and vacant buildings.

EXISTING PLANS:

The City's College Hill Neighborhood Revitalization Strategy Area (NRSA) application, as approved by the U.S. Department of Housing and Urban Development on August 31, 2004, specifically prioritized "mixed commercial/office and housing" redevelopment of the vacant properties at the intersection of North Bend Road and Hamilton Avenue. The sale of land in support of the Linden Park Commons redevelopment is consistent with and supportive of the implementation of the NRSA application.

On January 4, 2002, City Planning Commission approved the College Hill NBD Urban Renewal Plan (the Plan). One of the main recommendations of the Plan is to make the entire district more pedestrian

friendly. As the Plan was prepared prior the vacation of the Shuller's Wigwam, Kroger and MESH sites, specific redevelopment recommendations were not included for these properties.

Consistent with the goal of increasing the pedestrian friendliness of the College Hill NBD, the College Hill Community Urban Redevelopment Corporation (CHCURC) developed preliminary redevelopment goals and plans for the Linden Park Commons project. These plans were presented to City Planning Commission in support of a zone change request for the site that was approved on December 17, 2004 and adopted by City Council through Ordinance 44-2005 on February 9, 2005. The proposed Contract for the sale of land to support the Linden Park Commons redevelopment project is consistent with and supportive of the CC-P zoning established for the site earlier this year.

RECOMMENDATION:

The staff of the Department of Community Development and Planning recommended that City Planning Commission take the following action:

Approve the sale of the Shuller's Wigwam and Masonic Eastern Start Home sites in College Hill to support the Linden Park Commons redevelopment project.

DISCUSSION

Mr. Mooney wanted to know what type of guidelines were proposed to make certain the developer stayed within a reasonable timeframe set forth by the City.

Mr. Jackson stated that the developer (Al Neyer Inc.) would not receive any funding from the City until the timeline agreements contained in the contract are met. Mr. Jackson explained that the plan is to start on the City lots first, as Phase I

Ms. McCray inquired about the actual time the construction would take place. Mr. Jackson stated that the community council would like to see it started at least before the New Year. However, at best construction would start in the summer of 2006.

Motion:	Donald Mooney motioned approval of the By Leave Item #21.
Second:	Jacquelyn McCray
Ayes:	Faux, Hankner, McCray, Mooney, Rager and Tarbell
Nays:	None, motion carried

ITEM #4 : A report and recommendation for a designation of a portion of Burnet Avenue in the Avondale Neighborhood Business District as an urban renewal study area.

Caroline Kellem, Senior City Planner, presented this report

BACKGROUND

Two years ago the Avondale Community Council and the Uptown Consortium hired private consultants to prepare the Burnet Avenue Revitalization Strategy plan. A draft of the plan is complete and the Avondale Community Council is requesting that the plan be adopted as an urban renewal plan.

According to the revised Chapter 725, Cincinnati Municipal Code (CMC) "Urban Renewal", (Ordinance No. 225-1990), the procedure for adoption of the plan requires the following sequence of events:

1. Identification of a proposed study area boundary by the City Planning Commission;
2. Preparation of a preliminary or draft plan by the City Manager;
3. Submission of the preliminary draft plan to the Planning Commission for review and comment; and
4. Preparation of the proposed plan in final form by the City Manager.

The development of an urban renewal plan with design guidelines satisfies the second requirement for implementing the proposed redevelopment plan for the business district. A draft of this plan will be submitted to the City Planning Commission for review and comment prior to submission of the final document.

THE GEOGRAPHICAL LOCATION OF THE PROPOSED URBAN RENEWAL AREA

The proposed urban renewal area is situated in the middle of the Avondale statistical neighborhood. The proposed study area is bounded approximately by Forest Avenue to the north; Harvey Avenue to the east; Erkenbrecher Avenue to the south; and Wilson to the west, as shown on the attached map.

PROJECT COORDINATION

The Department of Community Development and Planning is coordinating with the Avondale Community Council and the Office of Architecture and Urban Design to complete the necessary steps to adopt the Burnet Avenue Revitalization Strategy as an Urban Renewal Plan. The Office of Architecture and Urban Design is conducting a blight study for the area in accordance with Chapter 725 CMC.

The Avondale Community Council voted on a proposed Urban Renewal study boundary on May 17, 2005. Since May, the boundary was revised and then revised back to the original boundary approved on May 17, 2005. A request from the president of the Avondale Community Council was received in the Department of Community Development and Planning to adopt the Burnet Avenue Revitalization Strategy as an Urban Renewal Plan.

RECOMMENDATION

The Department of Community Development and Planning staff recommends that the City Planning Commission take the following action:

Approve the Burnet Avenue Neighborhood Business District along Burnet Avenue as a study area boundary for the development of an Urban Renewal Plan.

DISCUSSION

Ms. Rosalyn King, resident of 330 Erkenbrecker, spoke on this item and stated that she has lived in the neighborhood for over 30 years. She has a physically handicapped child and needs to stay in close proximity to Children's hospital because of her daughter's illness. She had concerns about the impact of the development on her neighborhood. She wanted to know how it would affect her property and the surrounding property.

Mr. Faux informed Ms. King that the plans are at the early stages of the study and no plans have actually been developed. Ms. Kellem also emphasized that the concepts are only in draft form and that the City would be holding public meetings for the community to provide input.

Mr. Mooney questioned why the specific area was chosen for the boundary. Mr. Jim King stated that the community council decided on the boundary, but the main emphasis was on Burnet Ave to Park Ave. Mr. Faux also made a point of stating that this study does not imply that the City is trying to take any ones property. Ms. Kellem stated that the study is really focusing on the business properties on Burnet Ave. She indicated that the study would take at least four months before it would be brought back to the Planning Commission.

Ms. McCray suggested that staff get Ms. King's address and phone number in order to keep her updated on all issues concerning the study.

Motion: Mr. Mooney motioned approval of the staff recommendation.
Second: Ms. McCray

Ayes: Faux, Hankner, McCray, Mooney, Rager and Tarbell
Nays: None, **motion carried**

ITEM #5 A request from the Northside Community Council for the City Planning Commission to recommend an emergency, three-month, Interim Development Control (IDC) Overlay District, per Chapter 1431 of the City of Cincinnati Zoning Code, on the entire former site of the Myron Johnson Lumber Company.

Rodney Ringer, Senior City Planner, presented this report

BACKGROUND:

On October 25, 2005 a letter was submitted to the Department of Community Development and Planning dated October 23, 2005 from the Northside Community Council. The letter requested that the City Planning Commission (CPC) recommend that an emergency, three-month Interim Development Control (IDC) Overlay District, be put in place immediately on the entire former site of the Myron Johnson Lumber Company. The Community of Northside have raised concern that the zoning on the Myron Johnson site was not changed as recommended in the 1983 Northside Community Plan.

PURPOSE OF THE PROPOSED IDC:

Pursuant to Section 1431-01 of the Cincinnati Zoning Code, the purpose of an IDC is intended to temporarily regulate the establishment of uses, construction of new buildings and demolition or alteration of existing structures in areas where the adoption of amendments to the Cincinnati Zoning Code have been proposed in a comprehensive plan, community plan, urban design plan or urban renewal plan approved by the City Planning Commission.

FINDINGS:

At the time that the 1983 Northside Community Plan was written the existing zoning on the Myron Johnson Lumber Company site was zoned M-2 Intermediate Manufacturing District and the land use was Commercial. The plan recommended that the property be split into two different zoning districts. The front portion of the site recommended that the property be changed to B-4 General Business District while the remaining portion of the site stay as a M-2 District.

In review of the 1983 Northside Community Plan and the minutes from the July 29, 1983 CPC meeting, staff has found that the CPC passed a motion to accept the Northside Community Plan, and moved that the CPC adopt as part of the Coordinated City Plan the policies stated in attachment A, extracted from the 1983 Northside Community Plan with modification of 1.2 under Land Use. The extraction read as follows; "Where feasible, areas designated commercial or manufacturing/ industry should remain as such, with no further expansion except where indicated. The Planning Commission asked that the staff reword goal 1.2 to read...no further expansion into predominately residential areas.

The zoning around the Myron Johnson site in 1983 was not residentially zoned. In addition the City staff recommended that CPC, Accept the plan, which acknowledged the existence of the 1983 Northside Community Plan. This meant that the CPC acknowledged the preparation of a plan without giving their approval or disapproval.

CONCLUSION:

Staff believes that the request for an IDC at the former Myron Johnson Company site cannot be supported because the 1983 Northside Community Plan was not adopted by the CPC.

RECOMMENDATION:

The Department of Community Development and Planning staff recommended that the City Planning Commission disapprove the request for an Emergency Interim Development Control (IDC) District, for the former Myron Johnson Lumber Company site within the Community of Northside.

DISCUSSION:

The Commission was dismayed that the 1983 Northside Community Plan was not adopted and wanted to know if it could be adopted at the present time. Ms. McCray questioned whether the plan met the conditions for adoption of an IDC.

Mr. Tarbell stated that the community representatives have operated under the guidelines of the 1983 plan whether the Commission had adopted or had not adopted the plan. He felt that the 1983 plan should be adopted at this meeting.

Mr. Tarbell stated that the corner of Blue Rock and Hamilton is one of the key corner intersections in Cincinnati from a planning and development point of view. It is the heart of an old established business district that has gone through a myriad of changes over the last several decades. The neighborhood has been struggling to reclaim the original design of the district, to reclaim the pedestrian nature of the business district, to reclaim the sidewalk and to bring the buildings back to the street. If there was ever a call to stay true to that vision he felt this was it. He believed there would be some compromises as far as parking but he said that surface parking should not be allowed at the corner in the middle of a business district.

Mr. Faux discussed the history of the current neighborhood plan that had been before the Commission for adoption. The plan was suppose to come back to the Commission in 2 to 4 weeks. The reason a request for an IDC was before the Commission at this time is that the plan had not come back to the CPC and for that reason the community has had to rely on the 1983 plan. The option of adopting an IDC is because of the absence of a neighborhood plan.

Mr. Mooney and Ms. McCray both agreed that the Commission has no legal authority to adopt an IDC at this time. Ms. McCray asked when the plan would be ready. Mr. Tim Jeckering explained that the community had two meetings with business owners and residents. A third meeting is planned before the plan would be ready to be presented to the Commission.

Mr. Mooney suggested deferring the discussion until the Commission has legal authority to adopt an IDC.

Mr. Robert Sala suggested that the Commission adopt IDC language from the old zone code and present it to the City Council. If City Council adopted the old IDC language, then Northside would be able to apply for an IDC.

Mr. Tim Burke, an attorney with Manley Burke stated that the Commission should use caution in adopting an IDC. He explained the effects that an IDC would have on an owner's property. He addressed Mr. Tarbell's comments and pointed out that to make a statement to bring a building back to the corner at Blue Rock and Hamilton was incorrect because there has never been a building at the street corner on this particular property. He made very clear that adopting the 1983 plan was not feasible because that plan makes a series of changes to zone designations that no longer exist. He stated that under the old zoning code this property was zoned B-4, which does not require a building be built to the street. Also, under B-4 one of the specific permitted uses for the property is a drug store which is exactly what is being proposed for this property now. He informed the Commission there was no justification to adopt an IDC under the 1983 plan or any approved plan.

Mr. Tarbell pointed out that he respected what Mr. Burke said and that he was correct in his statements. He pointed out that if neighborhoods don't take advantage of an opportunity to revisit key corners like Blue Rock and Hamilton and make them the highest and best use by bringing everything back to the sidewalk then a mistake is being made.

Mr. Burke responded by saying that we should discuss things accurately and to say we want to bring buildings back to the corner is inaccurate.

Mr. Mooney said that there are two approaches in getting that type of development done: the stick approach which nothing is getting done and the carrot approach where the neighborhood, the City or the Development Department could use some type of incentive to bring the building out to the street and allow the parking at the back of the building.

Mr. Faux stated that for the record there is an appeal before the Zoning Board on November 21, 2005 regarding the Walgreens' interpretation and also an appeal on the recent decision of the Historic Conservation Board.

Motion: Mr. Rager motioned to table the item.
Second: Ms. McCray
Ayes: Faux, Hankner, McCray, Mooney, Rager and Tarbell
Nays: None, **motion carried**

Margaret Wuerstle, Chief City Planner, presented this report

Mr. Faux asked Ms. Wuerstle to explain why the zoning text amendments were incorporated on the agenda and then certain amendments were removed. Ms. Wuerstle reminded the Commission that there was a motion by City Council when they adopted the new zoning code to set up a task force to review the sign chapter. The Commission approved the members of the sign task force and staff had been meeting for a substantial amount of time with the task force. They felt the regulations were ready to be presented to the Commission for review and comments. She explained that the Commission wanted the outdoor eating and drinking issue to be addressed and brought back to them as quickly as possible. She pointed out which amendments were removed and stated that a second notice was mailed to 450 interested parties informing them that these amendments were removed. The Public Nuisance issue was held at the request of the Law Department for 14 months. Mr. Kraus has been before the Commission requesting that it be put back on the agenda. She also explained that the Commission asked for an interpretation policy and Ms. Lemmie directed staff to prepare a formal policy. She felt that the items were addressed and ready for Commission review but the Department of Building and Inspections, and the Law Department had concerns about some of the amendments and that is why certain amendments were removed from the agenda.

ITEM #6 §1401-01-A14. Awning – Definition

1401-01-A14. Awning

An “Awning” is an architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached. An awning may be fixed or of a type that can be retracted, folded or collapsed.

ITEM #7 §1401-01-C. Canopy- Definition

1401-01--C. Canopy

A “Canopy” is an architectural projection that provides weather protection, identity or decoration. It is supported by the building to which it is attached or by not less than one stanchion support at the outer end. A canopy is comprised of a rigid structure over which a covering is attached.

ITEM #8 §1401-01-M2.1. Marquee – Definition

1401-01-M2.1. Marquee

A “Marquee” is a permanent roofed structure attached to and supported by the building and projects over public property / right-of-way. A marquee is constructed of a durable material such as glass or metal and is designed to accept signage and to provide protection from the elements. Marquees are not awnings or canopies.

JUSTIFICATION: Chapter 1427, Sign Regulations presently defines an Awning, Awning Sign, Canopy Sign and Marquee Sign; Canopy and Marquee are not defined elsewhere in the code and the present definitions of Canopy and a Marquee are identical. The revised definitions are based on those in the Ohio building code (as used elsewhere within the Department of Buildings & Inspections) and clearly distinguish between types

ITEM #14 §1427. Sign Regulations

SUBJECT: REPORT TO THE CINCINNATI PLANNING COMMISSION ON THE CINCINNATI ZONING CODE CHAPTER 1427. SIGN REGULATIONS

PROPOSED TEXT AMENDMENTS:

REPORT TO THE CINCINNATI PLANNING COMMISSION ON THE CINCINNATI ZONING CODE CHAPTER 1427. SIGN REGULATIONS

September 2005

Sign Task Force Members:

Gene Barre, United Maier Signs
Julia Carney, City Department of Law
Susan Doucleff, President
Kevin Holthaus, Holthaus Signs
Reggie Lyons, City Department of Buildings & Inspections
Michael Moore, City Department of Transportation & Engineering
Mike Wagner, Cincinnati Neighborhood Business District
Adrienne Cowden, City Department of Community Development & Planning
William Forwood, City Department of Community Development & Planning

The Sign Task Force has met over the last year to discuss changes to the sign section of the zoning code as rewritten. It has identified areas that: 1) require technical corrections such as definitions and related sections, 2) present difficulties in interpretation, administration or enforcement or require unwarranted variances through the hearing process or 3) warrant changes to conform to current practices in the industry. The discussion of these proposed changes is arranged in priority order as follows:

- Substantive Changes
- Enforcement / Administrative Changes
- Technical Corrections
- Other Related Considerations

Substantive Changes

Calculation of Allowable Building Sign, Ground Sign and Total Sign Areas

The Sign Task Force proposes that the means of calculating allowable building signs, ground signs and total sign area be revised. Building sign and ground sign areas would be calculated separately; total sign area would be their aggregate. This grew out of discussions regarding multi-tenant buildings (particularly strip centers) which are frequently oriented perpendicularly to the street and may have facades oriented to a parking lot that are often greater than the street frontage of the lot. Turn over or initial leasing of first floor space frequently requires variances, signage totals are quickly exhausted and tenants are lost.

Changing the formula would simplify the permitting and enforcement process, proportion building signs to the structure on which they are located, eliminate the need for sign plan for multi-tenanted building and provide greater flexibility comparable to other surrounding jurisdictions. This would eliminate the need for the recalculation of the entire building allocation in order to address a tenant change, reduce the number of non-conforming signs created by the zoning rewrite and obviate the number of required variances.

All building signs, whether wall, projecting, awning, marquee or canopy, would be based on the lineal frontage of the building to which they are attached and allocated by establishment. Allowable area would be calculated based on the lineal frontage of the building rather than on lot frontage and tied to an occupant's portion. This would make building signs relate only to the structure to which they are attached and individual users. It would not affect the present allocation for buildings that occupy the full width of a lot, but will no longer penalize multi-tenant projects. Conversely, it would no longer award additional sign area to a building based on unoccupied lot frontage. Awning, marquee, canopy, wall and projecting signs could be used in combination, but each sign type would have a maximum dimensions. An owner would be able to choose any combination of sign types within the total allowable area, with a limit of two building sign types per establishment.

Ground signs would be calculated separately based on lot street frontage (as presently), but independent of building signs. The current maximums for ground signs based on zoning designation would be retained. Ground signs would be prohibited in certain zones (as presently) and retain height and area limits. Provisions would be made for a second ground sign on lots with multiple street frontages; minimum lot frontage and separation between signs would be established.

The following sections of the Zoning Code are impacted by the proposed changes. All individual zone tables would have to be modified to identify allowable signage and maximum sizes. Allocations would be described in terms of establishment bounds for building signs and lot street frontage for ground signs.

§ 1427-21	Maximum Total Sign Area
§ 1427-23	Wall Sign Regulations
§ 1427-25	Ground Sign Regulations
§ 1427-33	Signs Permitted in Any District
§ 1427-35	Sign Standards for the O Districts
§ 1427-37	Sign Standards for the C Districts
§ 1427-39	Sign Standards for the M, RF-R, RF-C and RF-M Districts
§ 1445-07	Authority to Grant Variances, Special Exceptions and Conditional Uses

Allowing Roof Signs in the MG and ME Districts

The present code does not allow a sign to be erected on or above the roofline in any zoning district. The task force believes that such a sign may be appropriate in the MG or ME where it will not encroach on the character of adjacent residential areas and when it is proportionate to the building on which it is mounted. Signs may be externally lighted as a conditional use. A new § 1427-28 addresses design and functional issues.

§ 1427-09	Prohibited Sign Types, Locations, Message
§ 1427-39	Sign Standards for the M, RF-R, RF-C and RF-M Districts

Allowing Combinations of Awning, Canopy, Marquee, Projecting and Wall Signs in O and C Districts

Presently within the O and C Districts, no building may have both a wall and marquee sign; each are allowed separately. Awning signs may be installed in combination with either a marquee or wall sign, but are limited to 12 square feet in area; letter height is limited to 12 inches. Projecting signs are prohibited in the O Districts. C Districts permit projecting signs, but not in combination with a wall or marquee sign.

The task force believes that the prohibition against combining sign types is unwarranted and necessary and that an owner should be able to assign his sign area as he chooses, including installing an awning sign that exceeds 12 square feet in area. Sign area would be limited by the width of the occupied space and not by lot width and would be calculated independently of any ground sign(s). All sign types would continue to have limits on maximum area, number and dimensions.

§ 1427-35 Sign Standards for the O District

§ 1427-37 Sign Standards for the C District

Calculation of Sign Face Area

The area of a sign is presently defined by an enclosing rectangle, regardless of the shape of the sign. While this makes it easy to calculate the area, the industry believes the method is too restrictive, discourages creative design solutions and leads to uniformity as owners resort to simple rectangular signs to maximize their size. The task force believes there are equally efficient ways to calculate area and would allow an area defined by an enclosing circle, half-circle, parallelogram, triangle or combinations thereof, up to maximum of three connected shapes. New graphics would be required for this section to illustrate examples for calculating face area.

§ 1427-03-S2 Sign Face Area

Exempting Window Signs from the Maximum Total Area

The present code requires that the area of window signs be counted against the total sign area permitted on the structure. The task force believes that the 20% area limitation is sufficient and that the regulation of temporary window signs is not feasible, so has exempted window signs from the maximum area by eliminating the relevant clause. Since they are no longer being regulated, temporary window signs are also being removed from the list of exempt signs.

§ 1427-11 Exempt Signs

§ 1427-29 Window Sign Regulations

Minimum Distances/Maximum Height for Ground Signs

There is presently no minimum height for a ground sign, nor is there a prohibition on erecting such signs within the view cone at intersections. The proposed changes to this section specify the height and locations of ground signs for safety reasons and to be consistent with other sections of the code. It also allows a ground sign oriented toward an Interstate to be taller than otherwise permitted. New graphics will be required to illustrate limitations of the sight cone

§ 1427-25 Ground Sign Regulations

Enforcement / Administrative Changes

Identification Markings

The present language calls for marking legal signs with its permit number and name of installer, but provides no guidance for doing so. The task force felt that since this provision addresses enforcement, there should be consistency in the type and location of markings. This section has been changed to require the display of a uniform identifier to be issued by the Department of Buildings & Inspections with the permit.

§ 1427-05 Applicability

Removal of Illegal and Inactive Signs

The code gives an owner 45 days to remove a sign made inactive by the loss of a user. The task force believes that this is insufficient time to allow an owner to secure a new tenant, so has extended this period to 180 days. Likewise, the 15 days given an owner to comply with an order to remove an illegal sign has been changed to 30 days to be consistent with other sections of the code and practice.

§ 1427-41 Illegal Signs

Removal of Non-Conforming Signs

Presently a non-conforming sign must be brought up to code if it is physically changed or if the use of the property changes. The task force agrees that such signs should be grandfathered and that only a physical change in the sign should trigger compliance, so has deleted the use clause.

§ 1427-43 Nonconforming Signs

Technical Corrections

Distinguishing Between Awning, Marquee and Canopy Signs

Currently Chapter 1427 includes partial definitions of an awning, canopy and marquee as well as definitions of signage attached to these elements. The Task Force agreed that definitions for awnings, canopies, and marquees that clearly distinguish between types should be included in Chapter 1401 of the Zoning Code. These definitions should be based on those included the Ohio Building Code (as used elsewhere within the Department of Buildings & Inspections), which indicate an awning is more similar in form and application to a canopy than a marquee.

§ 1427-03-A Awning Sign

§ 1427-03-C Canopy Sign

§ 1427-03-M Marquee Sign

The Task Force agreed, based on the Ohio Building Code and general views of these elements, awnings and canopies should be grouped together and separated from a marquee sign in the tables included in the following sections:

§ 1427-35 Sign Standards for the O Districts

§ 1427-37 Sign Standards for the C Districts

§ 1427-39 Sign Standards for the M, RF-R, RF-C and RF-M Districts

Revised Definitions for Projecting and Wall Signs

The Code presently defines a wall sign as one that projects no more than 16" from the building face and a projecting sign as one that greater than that distance. The definitions do not address their essential difference in their form or placement; the 16" measurement seems arbitrary. As revised, a projecting sign is one that projects from the wall and a wall sign is one mounted parallel to the building face.

- § 1427-03-W Wall Sign
- § 1427-03-P2 Projecting Sign
- § 1427-23 Wall Sign Regulations
- § 1427-27 Projecting Sign Regulations

Temporary Signs

Under the present language, a temporary sign requires a sign permit, but In some cases, a Certificate of Compliance is issued in lieu of a building permit. This section has been changed to acknowledge this condition.

- § 1427-13 Temporary Signs

Other Related Considerations

Murals

Murals require a permit or a Certificate of Compliance to install, but are essentially unregulated otherwise. The task force agreed that murals should be maintained as necessary and their installation should not have a negative impact on significant architectural features. The task force considered restricting murals by size, location or media. It also considered allowing a small portion of a mural to identify a sponsor or product without defining the entire mural as a sign, if the commercial portion was incidental and not integral to the design. However, the task force did not want to address/restrict content and could not agree on consistent criteria to address their design/installation.

- § 1427-19 Murals

Sandwich Board Signs

The zoning code presently prohibits sandwich signs in all districts, leaving their administration solely to the § 723-12 Free Standing Business or Identification Signs (Sandwich Boards) on Sidewalk of the Municipal Code. Such signs are unregulated (except as possibly a ground sign) when installed on private property. The task force drafted a new sandwich board section that limits such signs by size, location and lighting, but it is uncertain whether this belongs in the zoning code. If so, sandwich board signs would be removed from the list of prohibited signs and added to that permitted in any district. They would not count against the total sign area for subject lot but would be limited in one per site. A new § 1427-26 was added to address Sandwich Board Signs.

- § 1427-09 Prohibited Sign Types, Locations, Message
- § 1427-33 Signs Permitted in Any District

Item #14 has been removed from Discussion Item per Law Department and Building & Inspections.

Awning Sign.

“Awning Sign” means a sign painted on or attached to, or supported by an awning in any manner.

§ 1427-03-C. Canopy Sign.

“Canopy Sign” means a sign painted on, attached to, or made part of a canopy in any manner.

§ 1427-03-M. Marquee Sign.

“Marquee Sign” means a sign painted on, attached to, or made part of a marquee in any manner.

§ 1427-03-P2. Projecting Sign.

“Projecting Sign” means a sign that is wholly or partly dependant on a building for support or suspended from a pole attached to a structure and that projects from the building at a perpendicular angle or approximately perpendicular angle. A Projecting Sign may not extend more than six feet from the wall to which it is attached.



FIGURE 1427-03-P1 Example of Projecting Sign

§ 1427-03-S2. Sign Face Area.

"Sign Face Area" means the area of the smallest enclosing circle, half-circle, parallelogram, or triangle that encloses all of the letters, figures or symbols that comprise the sign message, including any background forming an integral part of the display, but not including any structure supporting the sign, unless the support structure forms a part of the message being displayed. Irregular shapes shall be calculated by up to a maximum of three connected shapes. Refer to Figure 1427-03-S2

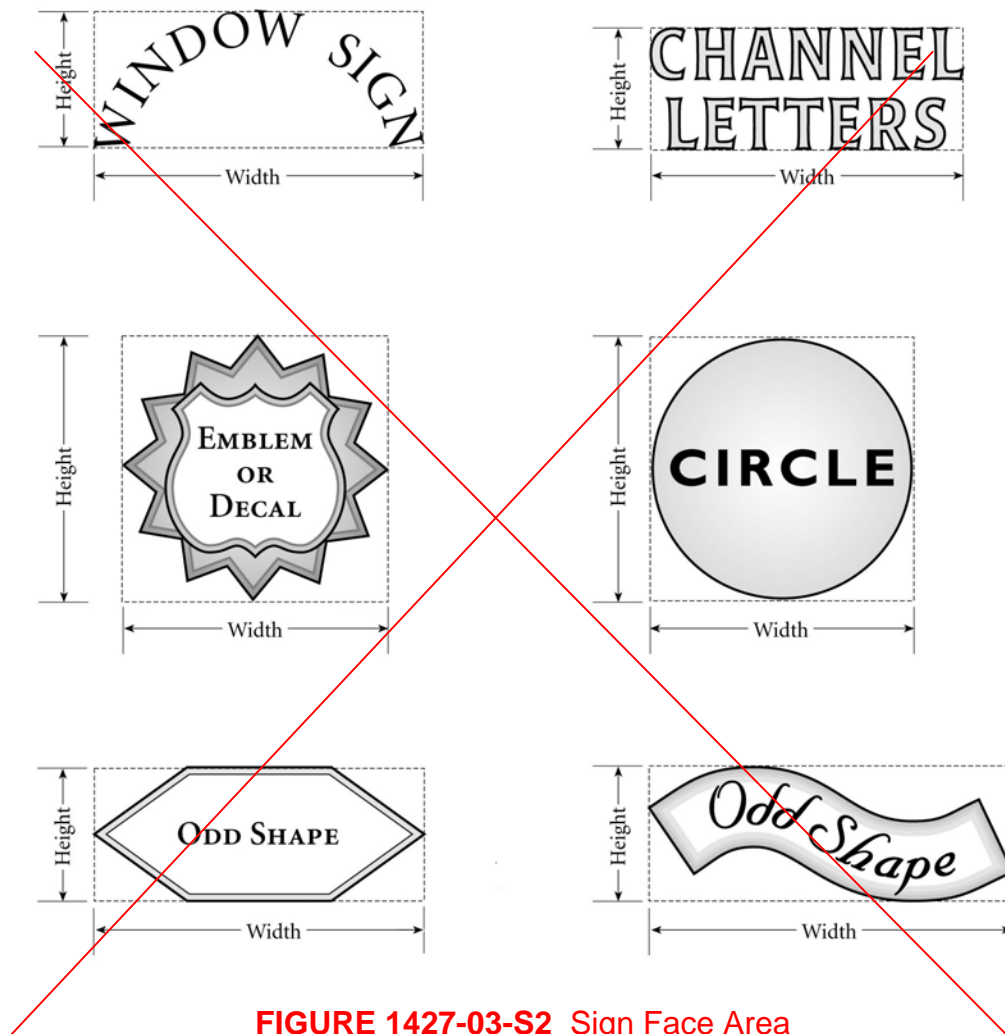


FIGURE 1427-03-S2 Sign Face Area

§ 1427-03-W. Wall Sign.

“Wall Sign” means a sign painted on or fastened to the wall of a building or structure in a plane parallel or approximately parallel to the plane of said wall and affixed in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign.

§ 1427-05. Applicability.

The regulations set forth in this Chapter apply to all on-site signs in all districts, except in the DD District and in the IR District, where the sign regulations set forth in Chapter 1411, Downtown Development District, and Chapter 1417, Institutional-Residential District, apply where inconsistent with the regulations set forth in this Chapter.

A sign regulated by this Chapter may not be erected or displayed unless a building permit is obtained or the sign is listed as an exempt sign in §1427-11.

Every sign erected, constructed, painted or maintained for which a permit is issued under these regulations, must be plainly marked with the permit number issued for said sign. The Department of Buildings and Inspections will issue an identifier with the building permit.

§ 1427-09. Prohibited Sign Types, Locations, and Message.

The following signs, sign types, sign locations, and sign messages are prohibited:

- (a) In any public park or on any public property without the permission of the City of Cincinnati.
- (b) On any traffic control sign, utility pole, street sign, or tree.
- (c) In any location where the view of approaching or intersecting traffic would be obstructed. A sign may not be located so as to interfere with the safe movement of vehicles or pedestrians entering, leaving, or crossing a public right-of-way.
- (d) A sign affixed to a vehicle or trailer, unless the vehicle or trailer is used in ordinary course of business for the transportation of persons or materials and not for the primary purpose of advertising.
- (e) On any property without prior authorization granted by the property owner on which any sign is displayed.
- (f) Moving, flashing or animated signs, balloons, gas inflated signs or similar inflated signs, portable signs, searchlights, streamers, spinners, flags (other than those specifically permitted herein), outdoor image projections (signs projected from an external light source onto a building or structure) or any other similar devices.
- (g)
- (h)

§ 1427-11. Exempt Signs.

The following signs are exempt from the permit requirements of this Chapter and are permitted in any zoning district:

- (a) Street address numbers displayed in accordance with § 723-65, Displaying House Numbers, of the Cincinnati Municipal Code.
- (b) Public information, identification, special event, directional, and other signs erected by a government agency.
- (c) Notices posted by a public utility or other quasi-public agent in the performance of a public duty.
- (d) City entry, community or district identification signs not exceeding 20 square feet in area and eight feet in height.
- (e) Names of buildings, dates of erection, commemorative tablets and the like, when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type material.

- (f) Credit card, trading stamp, or trade association signs not exceeding one-half square foot each and not exceeding ten per establishment.
- (g) Flags not exceeding 72 square feet each. A flag may be displayed on a pole not exceeding 35 feet in height or the height of the principal structure on the site, whichever is less. No more than 4 flags or flagpoles are permitted per site.
- (h) One Identification Sign per dwelling unit or per business, not exceeding one square foot each.
- (i) Instructional On-Site Signs provided that such signs are limited to a maximum of six square feet in area. If constructed as a ground mounted sign the maximum height is four feet.
- (j) Temporary Open House Signs provided that they are limited in number to a maximum of four per event, limited in size to a maximum of 12 square feet in area and located at least 12 feet from the edge of the street pavement. An open house sign may only be installed the day before the open house and must be removed the same day of the open house after its conclusion. In no case shall an open house sign be installed for more than 48 continuous hours.
- (k) Real Estate Sign.
 - (1) For all zoning districts, only one such sign is allowed per site per street frontage, and is limited in size to a maximum total sign face area of 24 square feet and 12 square feet for any single sign face.
 - (2) The sign may be a ground sign, a window sign, or a wall sign.
 - (3) All signs must be removed within 14 days after the sale, lease, or rental has occurred. These signs may only be installed on the property to which they refer.
- (l) Noncommercial Signs as regulated by § 1427-15.

§ 1427-13. Temporary Signs.

A temporary sign is permitted in any zoning district, requires obtaining a building permit or a Certificate of Compliance, may only be externally illuminated, and may include:

- (a) A Temporary Construction Sign provided that such a sign is limited in size to a maximum total sign face area of 64 square feet and 32 square feet for any single sign face. Each site may only have one sign. Construction signs cannot be installed prior to the commencement of construction on the site and must be removed within 24 hours of completion of construction. Construction signs may be erected as wall or ground signs.
- (b) Decorations, banners, and signs for public demonstrations, special events, or for the temporary promotion of civic, welfare or charitable enterprises or events. A banner may not exceed 12 feet in any of its dimensions. These signs may be installed for a period not to exceed 30 days with a minimum of

30 days between installation periods for a maximum of four times for every calendar year.

- (c) Residential subdivisions with multiple lots for sale, lease, or rent may have one temporary ground mounted sign per perimeter street frontage around the subdivision in addition to signs allowed under §1427-11-(m) Real Estate Sign. The additional residential subdivision sign may not exceed 250 square feet in area or ten square feet for every lot offered, whichever is less. This sign must be at least 50 feet from a perimeter street or right-of-way surrounding the subdivision. No two signs, if allowed, may be closer than 200 feet to each other. The sign must be removed when 75% of the lots in the subdivision have received a certificate of occupancy.
- (d) One on-site commercial sign per site, installed only as a temporary ground sign, not exceeding 36 square feet per sign face, with a maximum of two sign faces and a maximum sign height of 5 feet. Such sign may be installed for a period not to exceed 30 days for a maximum of four times for every calendar year with a minimum of 30 days between installations.

§ 1427-19. Murals.

One mural on only one wall of a building or structure is permitted. Murals require either a building permit or a Certificate of Compliance.

§ 1427-21. Maximum Total Sign Area.

In determining compliance with the maximum total sign area (See §1427-35-(a), §1427-37-(a), and §1427-39-(a)), the following rules apply:

- (i) The maximum total sign area for all buildings shall be the sum of the allowable building sign area permitted and the allowable ground sign area permitted in each of the individual zoning districts.
- (j) The maximum sign area for all building (wall, projecting, marquee, awning/canopy) signs shall be a multiple of the linear feet of building frontage occupied by an individual establishment, subject to the maximums delineated for each zoning district. No more than two building sign types may be used on a single building.
- (k) The maximum sign area for all ground signs shall be a multiple of the linear feet of lot frontage at the street, subject to the maximums delineated for each zoning district.
- (l) The maximum total sign area may be allocated among the permitted signs in each district, provided that each sign conforms to the applicable regulations of the district in which the sign is located and the applicable regulations for the type of sign.
- (m) In no case may the total area of all signs on a particular site exceed the maximum total sign area given for a site in a particular zoning district.

- (n) Signs that are exempt from permit requirements (§1427-11 Exempt Signs), listed as temporary signs (§1427-13 Temporary Signs) and non-commercial signs (§1427-15 Non-commercial Signs) do not count against the maximum total sign area for a site in a particular zoning district.

§ 1427-23. Wall Sign Regulations.

The following regulations apply to wall signs (See §1427-03-W), unless more specifically regulated elsewhere in this Chapter or by the District regulations applicable to the zoning district in which the sign is located:

- (a) A wall sign may not project above a roofline.
- (b) A wall sign may not project within 10 feet of the eave or parapet or within 20 feet of the base of a building.
- (c) A wall sign may not be installed more than the permissible maximum height above grade as established per zoning district, as measured to the top of the sign.
- (d) Each individual wall sign face counts against the maximum total sign area (See §1427-21) permitted for all signs on a site and against the total area permitted for a wall sign as allowed in each district.

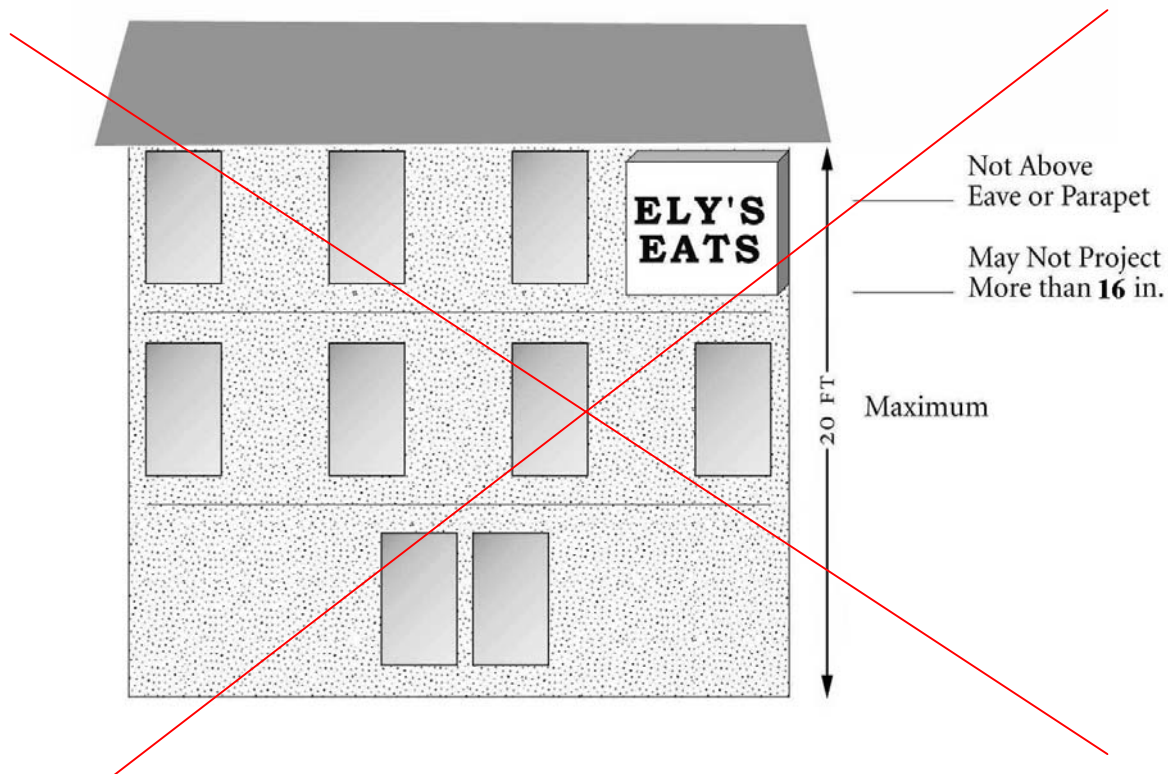




FIGURE 1427-23-A Examples of Wall Signs

§ 1427-25. Ground Sign Regulations.

The following regulations apply to ground signs (See §1427-03-G), unless more specifically regulated elsewhere in this Chapter or by the District regulations applicable to the zoning district in which the sign is located:

- (a) A ground sign may not be closer to a lot line or right-of-way than the greater of one-half the sign height or 15' when within a sight triangle. Refer to Figures 1427-25-A and 1427-25-C.
- (b) Only one ground sign per site is permitted for sites with less than 400 lineal feet of lot frontage. A secondary ground sign may be permitted on a lot with more than 400 feet of street frontage, but in no circumstance may two ground signs be erected within 200 feet of each other as measured along the street frontage.
- ~~(u)~~(c) For corner lots or sites with sufficient frontage to permit two ground signs, the primary ground sign shall not exceed the maximum total sign face area or square feet per sign face permitted in a district. The total sign face area of the second sign shall not exceed 50% of the maximum total sign face area or square feet per sign face permitted in a district.
- ~~(e)~~(d) For lots with double street frontage one ground sign may be installed per street frontage. A ground sign on an arterials or other major collector shall not exceed a maximum total sign face area or square feet per sign face permitted in a district. Ground signs erected on any other street frontage shall not exceed 50% of the maximum total sign face area or square feet per sign face permitted in a district. Double frontage lots are not subject to the restrictions of § 1427-25 (b).
- (e) Each individual ground sign face counts against the maximum total sign area (See § 1427-21) permitted for all signs on a site and against the total area permitted for a ground sign as allowed in each district.

- i. Ground signs oriented to an Interstate Highway within 400 feet of the Interstate right-of-way may be installed at a maximum of 40 feet above grade.
- ii. Ground signs are subject to the requirements of all City of Cincinnati departments and agencies.

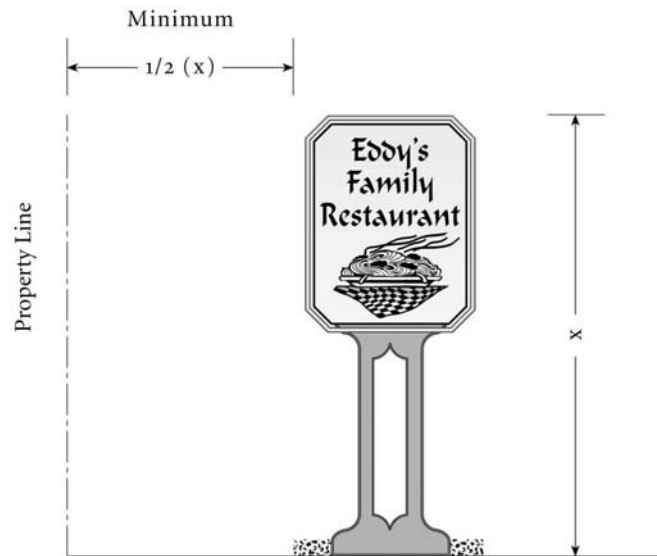


FIGURE 1427-25-A Ground Signs





FIGURE 1427-25-B Examples of Ground Signs

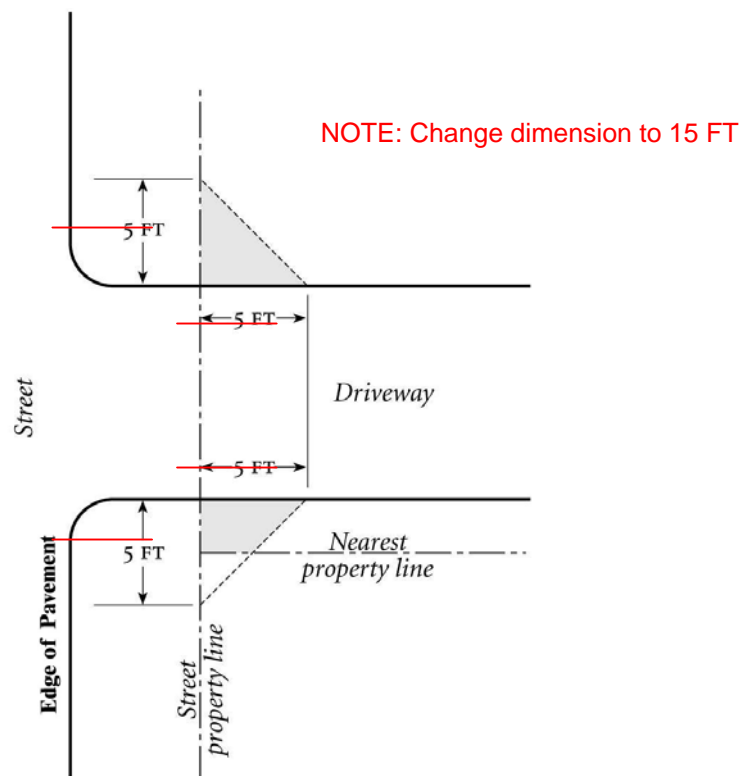


FIGURE 1427-25-C Site Triangle

§ 1427-26. Sandwich Board Sign Regulations.

The following regulations apply to sandwich board signs (See § 1427-03-S), unless more specifically regulated elsewhere in this Chapter or by the District regulations applicable to the zoning district in which the sign is located:

- (a) Only one sandwich board sign is permitted per retail business or service.

- (b) Such a sign shall be displayed only during the business hours of the establishment.
- (c) Each sandwich board sign shall be limited in size to a maximum total sign face area of 12 square feet and 6 square feet for any single face. A single sign face shall not exceed 3 feet in height and 2 feet in width.
- (d) Sandwich board signs in the public right of way shall be in compliance with with § 723-12 of the Municipal Code (Ordained by Ord. No. 184-1992, eff. May 29, 1992).

§ 1427-27. Projecting Sign Regulations.

The following regulations apply to projecting signs (See § 1427-03-P2), unless more specifically regulated elsewhere in this Chapter or by the District regulations applicable to the zoning district in which the sign is located:

- (a) A projecting sign must be at least 10 feet above the surface over which it projects, or at least 16 feet above a private vehicular passageway.
- (b) A projecting sign may not be installed above the roofline of a building or structure, or have a sign height more than 20 feet above the average natural grade at the sign location, whichever is less.
- (c) A projecting sign may not be wider than three and one-half feet nor exceed eight feet in height.
- (d) A projecting sign must be setback at least five feet from an interior side lot line or a division wall between different establishments.
- (e) A projecting sign may not project above a roofline. Refer to Figure 1427-27-A.
- (f) A projecting sign that projects into the right-of-way requires a revocable street privilege.
- (g) Projecting signs may only be located along or oriented toward a street frontage.
- (h) Each individual projecting sign face counts against the maximum total sign area (See § 1427-21) permitted for all signs on a site and against the total area permitted for a projecting sign as allowed in each district
- (i)
- (j) A projecting sign may not extend more than six feet from the wall to which it is attached to the end of the supporting structure.

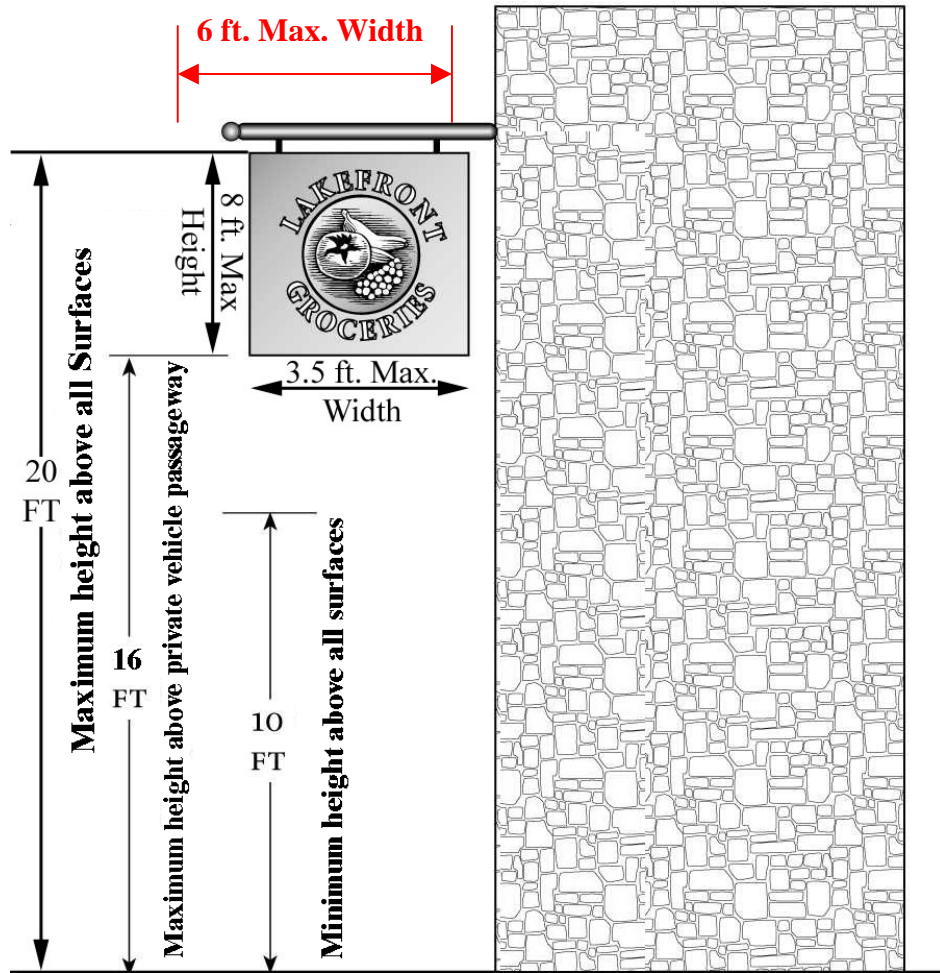


FIGURE 1427-27-A Projecting Signs



FIGURE 1427-27-B Examples of Projecting Signs

§ 1427-28. Roof Sign Regulations.

The following regulations apply to roof signs (See § 1427-03-R2), unless more specifically regulated elsewhere in this Chapter or by the District regulations applicable to the zoning district in which the sign is located:

- (a) Roof signs are permitted only in the MG and ME zoning districts. Premises located in a MG or ME zoning district may have either a roof sign or a wall sign but not both (See § 1427-39).
- (b) A roof sign may be installed provided it is limited in height to 10 feet or 25% of the building height whichever is less. The roof sign and the building on which it is installed shall not exceed a combined **height of 85 feet, the maximum building height in MG and ME Districts.**

§ 1427-29. Window Sign Regulations.

The following regulations apply to window signs (See § 1427-03-W1), unless more specifically regulated elsewhere in this Chapter or by the District regulations applicable to the zoning district in which the sign is located:

- (a) Window signs may not cover more than 20 percent of the total area of the particular window to which they are attached or related.
- (b) A window sign shall be limited to the ground floor or first floor windows only, unless an establishment is located in one or more of a building's upper floors and occupies no portion of the first floor
- (c)

§ 1427-31. Signs in Historic Districts or on Landmarks

Signs in historic districts or on historic landmarks require obtaining a Certificate of Appropriateness and shall be in conformance with any applicable guidelines for the district. See Chapter 1435 Historic Landmarks and Districts.

§ 1427-33. Signs Permitted in Any District.

The following signs are permitted in all districts (except as noted) where the use the sign is associated with is also permitted, limited, or conditional, subject to all other limitations, conditions, or prohibitions in this chapter.

	Entry Feature Sign	Identification Sign for Non-Residential Uses in SF and RM Districts	Changeable Copy Sign for Public and Semi-Public Uses	Home Occupation Sign	Sandwich Board Signs for Non-Residential Uses
Sign Types Permitted	Ground or Wall only	Ground or Wall only	Ground or Wall only	Wall or Window only	N/A
Maximum Area Per Sign Face	1 square foot per dwelling unit or 1 square foot per commercial tenant up to 25 square feet	24 square feet for public and semi-public uses; 12 square feet for all other non-residential uses	20 square feet	2 square feet	6 square feet
Maximum Number of Sign Faces	1	2	2	1	2

	Entry Feature Sign	Identification Sign for Non-Residential Uses in SF and RM Districts	Changeable Copy Sign for Public and Semi-Public Uses	Home Occupation Sign	Sandwich Board Signs for Non-Residential Uses
Maximum Number of Signs	One sign for every intersection between a subdivision or planned development interior street and a pre-existing perimeter street or along the street frontage of a multi-family development.	One per building	One per site	One per dwelling unit that has an existing and permitted home occupation use	One per business establishment
Maximum Sign Height	6 feet	6 feet	6 feet	The ground or first floor only unless a use is located in the second floor or higher of a building and has no first floor occupancy.	3 feet
Maximum Sign Width	12 feet	12 feet	10 feet	None	2 feet
Minimum Sign Setback	Twice the proposed sign height for a ground sign. None for a wall sign.	Twice the proposed sign height for a ground sign. None for a wall sign.	Twice the proposed sign height for a ground sign. None for a wall sign.	None	N/A
Illumination Permitted	External Only	External Only	External or Internal	None	None



FIGURE 1427-33 Examples of Entry Feature Signs

§ 1427-35. Sign Standards for the O Districts.

Signs in the O District must comply with the following:

- (a) Maximum Building Sign Area. (See § 1427-21)

- (1) *OL District*: 0.75 square feet for every linear foot of building frontage per establishment.
- (2) *OG District*: 1.5 square feet for every linear foot of building frontage per establishment.
- (3) *Changeable Copy Signs* are permitted in the OL and OG Districts. They may be constructed as ground, wall, marquee, or canopy signs and are subject to all other size regulations for the particular sign type selected. Only one changeable copy sign per site is permitted. A Changeable Copy Sign may not be changed or rearranged at less than a ten second interval and may not include streaming, animating, or flashing text or images.
- (4)

(b) Maximum Ground Sign Area. (See § 1427-21)

- (1) OL District: 0.375 square feet for every linear foot of lot frontage on a street per site.
- (2) OG District: 0.75 square feet for every linear foot of lot frontage on a street per site.

For Signs in the **OL District** the following regulations apply:

OL District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee Signs	Awning or Canopy Signs
Permitted Signs	Yes	Yes	No	Yes, if no marquee sign	Yes, if no wall sign	Yes
Max. # of Signs	See § 1427-25	Unlimited	N/A	1 per street frontage per establishment	1 per street frontage per establishment	1 per establishment
Max. Sign Area	36 sq. ft. per sign face	See § 1427-29	N/A	36 sq. ft.	36 sq. ft.	36 sq. ft.
Max. # of Sign Faces Permitted	2	1	N/A	1	1	1
Max. Sign Height	6 ft.	See § 1427-29	N/A	See § 1427-23	Not more than 2 ft. above marquee	N/A
Max. Sign Width	6 ft.	Horizontal limits of the window	N/A	Horizontal limits of the establishment	Horizontal limits of the marquee	Horizontal limits of the awning or canopy
Min. Setback from any lot line	3 ft	N/A	N/A	N/A	N/A	N/A
Permitted Illumination	External only	External only	N/A	External only	External only	External only

For Signs in the **OG District** the following regulations apply:

OG District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee Signs	Awning or Canopy Signs
Permitted Signs	Yes	Yes	No	Yes	Yes	Yes
Max. # of Signs	See § 1427-25	Unlimited	N/A	1 per street frontage per establishment	1 per street frontage per establishment	1 per establishment
Max. Sign Area	See § 1427-25	See § 1427-29	N/A	72 sq. ft.	72 sq. ft.	72 sq. ft.
Max. # of	2	1	N/A	1	1	1

Sign Faces Permitted						
Max. Sign Height	10 ft.	See § 1427-29	N/A		Not more than 2 ft. above marquee	N/A
Max. Sign Width	10 ft.	Horizontal limits of the window	N/A	Horizontal limits of the establishment	Horizontal limits of the marquee	Horizontal limits of the awning or canopy
Min. Setback from any lot line	3 ft. or one-half the height of the sign, whichever is greater	N/A	N/A	N/A	N/A	N/A
Permitted Illumination	External or Internal	External only	N/A	External or Internal	External or Internal	External or Internal

§ 1427-37. Signs Standards for the C Districts.

Signs in the C District must comply with the following:

- (a) **Maximum Building Sign Area.** The maximum sign area allowed is as follows:
(See § 1427-21)
 - (1) *CN-P and CC-P Districts:* One square foot for every linear foot of building frontage per establishment.
 - (2) *CN-M and CC-M Districts:* 1.5 square feet for every linear foot of building frontage per establishment.
 - (3) *CC-A and CG-A Districts:* Two square feet for every linear foot of building frontage per establishment.
 - (4) *Changeable Copy Signs* are permitted in the CN-M, CC-M, CC-A, and CG-A Districts. They may be constructed as ground, wall, marquee, or canopy signs and are subject to all other size regulations for the particular sign type selected. Only one changeable copy sign per site is permitted. A Changeable Copy Sign may not be changed or rearranged at less than a ten second interval and may not include streaming, animating, or flashing text or images, except for time/temperature signs that may change up to twenty times per minute.
 - (5)
- (b) **Maximum Ground Sign Area.** The maximum sign area allowed is as follows:
(See § 1427-21)
 - (3) *CN-M and CC-M Districts:* 0.75 square feet for every linear foot of lot frontage on a street per site.
 - (4) *CC-A and CG-A Districts:* One square foot for every linear foot of lot frontage on a street per site.

For Signs in the **CN-P & CC-P Districts**, the following regulations apply:

CN-P & CC-P District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee Signs	Awning or Canopy Signs
Permitted Signs	No	Yes	Yes	Yes	Yes, if no projecting or wall sign	Yes
Max. # of Signs	N/A	Unlimited	1 per building frontage per establishment	1 per building frontage per establishment	1 per building frontage per establishment	1 per establishment

CN-P & CC-P District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee Signs	Awning or Canopy Signs
Max. Sign Area	N/A	See § 1427-29	28 sq. ft. per sign face	See § 1427-37(a)(1)	See § 1427-37(a)(1)	See § 1427-37(a)(1)
Max. # of Sign Faces Permitted	N/A	1	2	1	1	1
Max. Sign Height	N/A	See § 1427-29	See § 1427-27	20 feet	Not more than 2 ft. above marquee	N/A
Max. Sign Width	N/A	Horizontal limits of the window	See § 1427-27	Horizontal limits of the wall	Horizontal limits of the marquee	Horizontal limits of the awning or canopy
Min. Setback from any lot line	N/A	N/A	See § 1427-27	N/A	N/A	N/A
Permitted Illumination	N/A	External or Internal	External or Internal	External or Internal	External or Internal	External or internal

For Signs in the **CN-M & CC-M Districts**, the following regulations apply:

CN-M & CC-M District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee Signs	Awning or Canopy Signs
Permitted Signs	Yes	Yes	Yes	Yes	Yes	Yes
Max. # of Signs	See § 1427-25	Unlimited	1 per buildingfrontage per establishment	1 per building frontage per establishment	1 per buidlingfrontage per establishment	1 per establishment
Max. Sign Area	36 sq. ft. per sign face	See §1427-29	28 sq. ft. per sign face	See §1427-37-(a)(2)	See §1427-37-(a)(2)	See §1427-37-(a)(2)
Max. # of Sign Faces Permitted	2	1	2	1	1	1
Max. Sign Height	10 ft.	See § 1427-29	See § 1427-27	25 ft.	Not more than 2 ft. above marquee	N/A
Max. Sign Width	None	Horizontal limits of the window	See § 1427-27	Horizontal limits of the wall	Horizontal limits of the marquee	Horizontal limits of the awning or canopy
Min. Setback from any lot line	One-half the height of the sign	N/A	See § 1427-27	N/A	N/A	N/A
Permitted Illumination	External or Internal	External or Internal	External or Internal	External or Internal	External or Internal	External or Internal

For Signs in the **CC-A & CG-A Districts**, the following regulations apply:

CC-A & CG-A District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee Signs	Awning or Canopy Signs
Permitted Signs	Yes	Yes	Yes	Yes	Yes	Yes
Max. # of Signs	See § 1427-25	Unlimited	1 per buildingfrontage per establishment	1 per buildingfrontage per establishment	1 per buildingfrontage per establishment	
Max. Sign Area	72 sq. ft. per sign face	See § 1427-29	28 sq. ft. per sign face	See § 1427-37(a)(3)	See § 1427-37(a)(3)	144 sq. ft.
Max. # of Sign Faces Permitted	2	1	2	1	1	1

Max. Sign Height	15 ft. unless adjacent to and oriented toward an Interstate then 40 ft. per 1427-25 (g)	See § 1427-29	See § 1427-27	See § 1427-23	Not more than 2 ft. above marquee	
Max. Sign Width	None	Horizontal limits of the window	See § 1427-27	Horizontal limits of the establishment	Horizontal limits of the marquee	Horizontal limits of the awning or canopy
Min. Setback from any lot line	One-half the height of the sign	N/A	See § 1427-27	N/A	N/A	N/A
Permitted Illumination	External or Internal	External or Internal	External or Internal	External or Internal	External or Internal	External or Internal

§ 1427-39. Sign Standards for the M, RF-R, RF-C and RF-M Districts.

Signs in the M, RF-R, RF-C and RF-M Districts must comply with the following:

- (a) Maximum Building Sign Area. Two square feet for every linear foot of building frontage per establishment. (See § 1427-21).
- (b) Maximum Ground Sign Area. One square foot for every linear foot of lot frontage per site.
- (c) Changeable Copy Signs are permitted in the M, RF-R, RF-C and RF-M Districts. They may be constructed as ground or wall signs and are subject to all other size regulations for the particular sign type selected. Only one changeable copy sign per site is permitted. A Changeable Copy Sign may not be changed or rearranged at less than a ten second interval and may not include streaming, animating, or flashing text or images.
- (d) Roof Signs are permitted only in the MG and ME Districts. (See § 1427-28).
- (e) If a site has more than one business occupant, the owner of the property shall determine how the sign area is to be allocated to the occupants. For all buildings, complexes, or sites designed and/or intended for multi-tenant usage, a total sign plan conforming to all the requirements of this Code must be submitted to the Buildings and Inspections Department for review and approval before any sign permit for the complex or an individual tenant will be issued.

For Signs in the **M, RF-R, RF-C & RF-M Districts**, the following regulations apply:

M, RF-C & RF-M District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee Signs	Awning or Canopy Signs	Roof Signs
Permitted Signs	Yes	No	No	Yes (only if no roof sign)	No	No	ME and MG Districts
Max. # of Signs	See §1427-25	N/A	N/A	1 per building frontage per establishment	N/A	N/A	
Max. Sign Area	72 sq. ft. per sign face	N/A	N/A	See § 1427-39(a)	N/A	N/A	§ 1427-28(b)

Max. # of Sign Faces Permitted	2	N/A	N/A	1	N/A	N/A	1
Max. Sign Height	15 ft.	N/A	N/A	30 ft.	N/A	N/A	25% of building height or 10 ft., whichever is less
Max. Sign Width	10 ft.	N/A	N/A	Horizontal limits of the establishment	N/A	N/A	Horizontal limits of the wall
Min. Setback from any lot line	One-half the height of the sign	N/A	N/A	N/A	N/A	N/A	N/A
Permitted Illumination	External or Internal	N/A	N/A	External or Internal	N/A	N/A	Special exception: See § 1445-07

§ 1427-41. Removal of Illegal Signs.

An owner of property where an illegal sign is displayed has the duty to remove all illegal signs. If the Director of Buildings and Inspections finds an illegal sign, the Director has the duty to issue an order for the sign to be removed within 30 days. The Director has the duty to issue a notice of civil violation to an owner who fails to comply with an order to remove an illegal sign. If the property owner is found guilty of failing to comply with an order to remove an illegal sign, the Director has the duty to give notice to the owner that the sign is a public nuisance and to cause the illegal signs to be removed pursuant to § 1101-57, Demolition of Buildings and Removal of Illegal Signs by the Director of Buildings and Inspections, of the Cincinnati Building Code.

§ 1427-43. Nonconforming Signs.

- (f) A nonconforming sign must be brought into conformity with the provisions of the Cincinnati Zoning Code then in effect if the sign is structurally altered, rebuilt, enlarged, extended, or relocated; provided, however, the repainting or refacing of an existing nonconforming sign is not considered an alteration within the meaning of this section.

§ 1445-07. Authority to Grant Variances, Special Exceptions and Conditional Uses.

The Zoning Hearing Examiner may grant variances, special exceptions and conditional uses, in accordance with the procedures and standards enumerated in this Chapter.

- (a) **Variances.** The examiner may not grant a variance that is greater than the minimum necessary relief demonstrated by the applicant or authorizes a change in use that would permit a use contrary to the use regulations of the applicable zoning district.
- (b) **Special Exceptions.** The examiner may consider applications only for those special exceptions specifically listed in Schedule 1445-07, List of Allowable Special Exceptions.
- (c) **Conditional Uses.** The examiner may, in accord with regulations applicable to the district in which the subject property is located, approve uses listed as

conditional uses in the schedule of use regulations for a district or for a category of zoning districts. Conditional uses are also subject to the special provisions of the district use regulations in those districts where such conditional uses are authorized.

Schedule 1445-07: List of Allowable Special Exceptions

Standard	Chapter or § Reference
Buffer Yards along district boundaries	§ 1423-13
Building Placement Requirements	§ 1409-19, 1409-23
Commercial Continuity	§ 1411-17
Ground Floor Transparency	§ 1409-25, 1411-21
Location of Parking	§ 1409-27, 1425-17
Additional Development Regulations	Chapter 1419
Landscaping and Buffer Yards	Chapter 1423
Parking Lot Landscaping	§ 1425-31
Parking Lot Screening	§ 1425-29
Roof Signs (Illumination)	§ 1427-39

Staff members William Forwood and Adrienne Cowden were present to discuss the changes in the Sign Chapter. Mr. Forwood stated that Item #6, #7 and #8 were needed due to the changes made to the Sign Chapter, which was Item #14. In the process of discussing the Sign Chapter Amendments, the Commission decided that it was best to form a sub-committee to meet with planning staff, and go over the Amendment, then report back to the Commission. The Commission wanted to clearly understand the changes that were being proposed.

Motion: Mr. Mooney motioned to form a subcommittee to meet with Planning Staff for clarification of the Sign Chapter amendments, items #6, #7, #8 and #14, and report their recommendations to the Commission.

Second: Ms. Hankner

Ayes: Faux, Hankner, McCray, Mooney, Rager and Tarbell

Nays: None, **motion carried**

Mr. Faux asked the Commissions for volunteers for the Sub-committee. The volunteers are:

- Ms. Hankner
- Ms. McCray
- Mr. Mooney

The date established for the Sub-Committee to report to the Commission with their recommendations on the Sign Chapter Amendments is December 16, 2005.

Mr. Uebelacher stated that he and other neighborhood committee members would like to be included in the Sub-Committee. Mr. Mooney said that staff would send out notification for the meeting and whoever wanted to attend the meeting could show up and it would be conducted as a public meeting.

Mr. Gene Bare stated that he was one of the members on the Sign Chapter task force. There were 20 meetings and all had intense discussions. He was concerned that the sign issues would get pushed to the back burner. He felt that this chapter had a big impact on businesses, especially small businesses. He stated that the backbone of the City was the small entrepreneurs.

Ms. Hankner responded that as a volunteer for the committee she had no desire to undo what the committee had already done. She stated that there are many issues surrounding the recommendations

and she needed an opportunity to thoroughly understand the recommendations and be sure she knows exactly what she is voting for.

The Commissioners all concurred with Ms. Hankner that it was not their intent to delay but rather to understand the proposed amendments.

ITEM #9 §1401-01-O6. Outdoor Eating or Drinking Area – Definition

SUBJECT: Proposed text amendment for a new definition for Outdoor Eating or Drinking Area

§ 1401-01-O6. Outdoor Eating or Drinking Area

A porch, patio, deck or other area used for consumption of food and/or beverages by the public which is not enclosed within the interior building walls of a limited restaurant, full service restaurant, or a drinking establishment and which may or may not have a solid roof cover.

§ 1401-01-O607. Outdoor Storage.

“Outdoor storage” means the keeping of commercial goods, equipment and raw materials in an open lot.

JUSTIFICATION:

§ 1419-21 of the Zoning Code provides regulations for outdoor eating areas for limited and full service restaurants. The current text amendments to § 1419-21, if adopted, extends these additional regulations to outdoor areas for drinking establishments. At the 4/15/05 meeting of the Planning Commission all text amendments that dealt with outdoor drinking areas were put on hold so that new language could be developed that would allow outdoor drinking areas in certain districts with limitations.

Item #9 was removed from the agenda so that the Law Department and the Department of Buildings & Inspections could further review and revise this amendment before the Commission reviewed and considered approval.

ITEM #10 §1401-01-P19.1 Public Nuisance – Definition

SUBJECT: To add a new definition to the Zoning Code for *Public Nuisance*.

Add to Chapter 1401 DEFINITIONS

§1401-01-P19.1 PUBLIC NUISANCE

A Public Nuisance is any circumstance causing the general public trouble, annoyance, inconvenience, irritation or endangers health and safety and any circumstance, action, or thing defined as a public nuisance in any sections of the Cincinnati Municipal Code.

JUSTIFICATION:

Public Nuisance is used throughout the Zoning Code but it is not defined. Customers have frequently inquired about the definition of public nuisance. This text amendment was presented to the Planning

Commission for consideration on August 27, 2004. At that time, it was put on hold for further research. Since no alternative definition has been proposed, the original text amendment is being resubmitted for consideration.

Item #10 was removed from the agenda so that the Law Department and the Department of Buildings & Inspections could further review and revise this amendment before the Commission reviewed and considered approval.

ITEM #11 §1409-07. Use Regulations – Commercial Sub districts

Schedule 1409-07: Use Regulations - Commercial Subdistricts

Use Classifications CN-P CN-M CC-P CC-M CC-A CG-A Additional Regulations

Commercial Uses

Eating and drinking establishments

Drinking establishments	L6 , L13- L6 , L13	L6 - <u>P</u>	P	P	P	See § 1419-21
Restaurants, full service	L6, L13 L6, L13	L6	P	P	P	See § 1419-21
Restaurants, limited	L6, L13 L6, L13	L6	P	P	P	See § 1419-21

JUSTIFICATION:

§ 1419-21 of the Zoning Code provides regulations for outdoor eating areas for limited and full service restaurants. The current text amendments to § 1419-21, if adopted, extends these additional regulations to outdoor areas for drinking establishments. The above chart needs to be amended to ensure that the regulations of §1419-21 are applied to all outdoor drinking areas in commercial zoning districts. At the 4/15/05 meeting of the Planning Commission all text amendments that dealt with outdoor drinking areas were put on hold so that new language could be developed that would allow outdoor drinking areas in certain districts with limitations. The “P” allowing drinking establishments in the CC-P district is correcting a scrivener's error made in the earlier amendment that removed the “L6” limitation from the CN-P, CN-M and CC-P districts.

The Commissioners decided to delay item #11 until Item #9 is presented at a future Planning Commission meeting.

ITEM #12 §1409-23. Transparency Standard for Ground Floor Windows and Doors

SUBJECT: To correct a typographical error on §1409-23.

Schedule 1409-23: Transparency Standard for Ground Floor Windows and Doors

Each Street Frontage (lineal feet)	Street Transparency Percentage ¹	
	Primary Street	Secondary Street
40 or less	80	30
41-80	70	40
81 or more	60	50

¹Within the zone of transparency as per Figure 1409-25-[23-A](#)

JUSTIFICATION:

This amendment corrects a typographical error.

Motion: Mr. Mooney moved to accept staff recommendation
Second: Ms. Hankner
Ayes: Faux, Hankner, McCray, Mooney, Rager and Tarbell
Nays: None, **motion carried**

ITEM #13 §1419-21. Limited or Full Service Restaurants and Drinking Establishments

SUBJECT: Proposed text amendment for §1419-21. Limited or Full Service Restaurants and drinking Establishments

§ 1419-21. Limited or Full Service Restaurants and Drinking Establishments.

Outdoor eating and drinking areas of limited or full service restaurants or drinking establishments must be located, developed and operated in compliance with the following:

- (a) **Location.** Outdoor eating and/or drinking areas on any public sidewalk or alley requires a revocable street privilege.
- (b) **Maximum Size.** The outdoor eating area may not exceed 25 percent of the indoor eating and/or drinking area, excluding other space not accessible to the public. In all cases, Additional outdoor eating and drinking areas exceeding the 25 percent limit must obtain requires conditional use approval pursuant to the procedures and criteria of Chapter 1445, Variances, Special Exceptions and Conditional Uses.
- (c) **Barriers.** Decorative walls or fencing must enclose an outdoor eating area.
- (d) ~~Alcoholic Beverages.~~ The provision of alcoholic beverages must be secondary and accessory to the provision of food. **Drinking Establishments.** Outdoor areas accessory to drinking establishments must be located a minimum of 300 feet from any residential district boundary line. Conditional Use approval must be obtained pursuant to the procedures and criteria of Chapter 1445, Variances, Special Exceptions and Conditional Uses, for outdoor areas closer than 300 feet to a residential district boundary line. Applicants must be able to show:
 - i. Alternative buffering that provides adequate protection to adjacent residential properties or
 - ii. Unique circumstances that exist and should be considered in determining the appropriate size of the buffer area or
 - iii. Mitigation of any negative impacts on the neighborhood.
- (e) **Cooking Facilities.** Cooking facilities may not be located in outdoor eating or drinking areas.
- (f) ~~Live Entertainment.~~ Live eEntertainment may not be presented in outdoor eating or drinking areas unless Conditional Use approval is obtained pursuant to the procedures and criteria of Chapter 1445, Variances, Special Exceptions and Conditional Uses.
- (g) **Fixtures.** Furniture and fixtures provided for use in an outdoor eating and/or drinking area may consist only of movable tables, chairs, umbrellas, planters, lights

and heaters. Lighting fixtures may be permanently affixed onto the exterior front of the building. All movable furniture and fixtures must be removed during the off-season.

(h) **Hours of Operation.** The use of outdoor eating areas is prohibited between 11 PM and 7 AM on weekends and 10 PM and 7 AM on weekdays.

(i) **Breweries and Wineries.** Beer and wine production accessory to a limited or full service restaurant is limited to an area that may not exceed 10,000 sq. ft and may not produce any objectionable odor, dust or fumes.

JUSTIFICATION:

The new Zoning Code provides regulations for outdoor eating areas for limited and full service restaurants. The Department of Building & Inspections has interpreted the Code to mean that outdoor drinking areas are permitted and that the regulations of §1419-21 do not apply. The Planning Commission put this text amendment on hold at their 4/15/05 meeting because they felt that outdoor drinking areas should be allowed with limitations. The Commission wanted to deal with all issues regarding the outdoor eating and drinking areas at one time.

Item #13 was removed from the agenda so that the Law Department and the Department of Buildings & Inspections could further review and revise this amendment before the Commission reviewed and considered it.

ITEM #15 §1439-05(b). Administrative Interpretations

SUBJECT: Proposed text amendment for §1439-05 (b) Administrative Interpretations

PROPOSED TEXT AMENDMENT:

§ 1439-05. Director of Buildings and Inspections.

The Director of Buildings and Inspections is appointed pursuant to Administrative Code Article XXI, § 8 and has the following powers and duties under the Cincinnati Zoning Code:

(a) **Administrative Duties.** The Director of Buildings and Inspections is authorized to administer and enforce the Cincinnati Zoning Code and to adopt such administrative rules as necessary to carry out these duties.

(b) **Administrative Interpretations.** The Director of Buildings and Inspections is authorized to make administrative interpretations of the Cincinnati Zoning Code. Upon submission of a complete application for an interpretation of the Zoning Code and the prescribed fee, the Director of Buildings and Inspections shall issue written interpretations of the meaning and applicability of specific provisions of the Cincinnati Zoning Code. Any interpretation of the Cincinnati Zoning Code shall be kept on file with the Director of Building and Inspections and shall be a public record of the City open to inspection by all persons at reasonable times and upon reasonable notice.

(1) AUTHORITY. The Director of Buildings and Inspections may, subject to the procedures, standards and limitations hereinafter set out, render interpretations of any provision of the Zoning Code.

(2) PURPOSE. Interpretations by the Director of Buildings and Inspections are intended to clarify the zoning text, including permitted uses, and district intent of various portions of the Zoning Code.

(3) INTERPRETATION STANDARDS. The following criteria shall govern the Director of Building and Inspections and the Zoning Board of Appeals on appeals of a decision by the Director of Building and Inspections in issuing use interpretations:

(a) No interpretation shall permit to be established in any district a use listed as a conditional use.

(b) No interpretation shall permit any use in any district unless evidence is presented which demonstrates that it will comply with each use limitation established for the particular district.

(c) No interpretation shall permit any use in any district unless such use is substantially similar to other uses permitted in the district in which the proposed use is to be located and is more similar to such other uses than to uses permitted or conditionally permitted in a more restrictive district.

(d) If a proposed use is most similar to a use permitted only as a conditional use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a Conditional Use Approval pursuant to §1445.

(4) PROCEDURE.

(a) Application. A request for interpretation of any provision of this chapter shall be submitted in writing on the forms prescribed by the Director of Buildings and Inspections. It shall set forth the specific provision or provisions to be interpreted, the facts of the specific situation concerning the request for an interpretation, and the precise interpretation claimed by the applicant to be correct. Each application may contain only one issue or situation for interpretation based on specific sections of the Zoning Code. Before the rendering of any interpretation, the Director of Building and Inspections may require such further facts and information as are, in his/her judgment, necessary to a meaningful interpretation of the provision in question. The Director will request written input from the Planning Division of the Department of Community Development and Planning and the Law Department on all interpretation issues.

(b) Fees. The Director of Buildings and Inspections shall establish fees and such fees must be submitted in order for the application to be deemed complete.

(c) Action by Director of Buildings and Inspections. Within 15 business days following the receipt of a completed request or application for interpretation, the Director of Building and Inspections shall inform the applicant in writing of the interpretation. The Director of Buildings and Inspections shall state the specific precedent, reasons and analysis upon which such interpretation is based as well as the deadline for filing an appeal. Notice of the decision will also be sent to all community councils recognized by City Council, the Planning Division, the Law Department, the Hearing Examiner and the Department of Transportation and Engineering.

(d) Procedure following interpretation. Following an interpretation by the Director of Building and Inspections, such interpretation shall be appended to the official copy of this Zoning Code and distributed with any copies of said Code until such time as a formal amendment renders such appendix redundant or vacated.

(5) EFFECT OF INTERPRETATION. An interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approvals which may be required by the Code of the City of Cincinnati.

(6) LIMITATION ON INTERPRETATIONS. If not made part of the Zoning Code an interpretation shall become null and void one year after the date the interpretation was made.

(7) APPEAL.

(a) Appeals of interpretations made by the Director of Buildings and Inspections shall be made to the Zoning Board of Appeals within 30 days of the date of mailing of the decision in accordance with the procedures found in §1449

(b) Any community organization recognized by the City Council as representing a neighborhood, any Department of the City of Cincinnati including but not limited to the Department of Community Development and Planning, the Department of Transportation and Engineering, and the Law Department will be considered to be a "person affected" for the purpose of appeals on interpretations.

(c) An appeal of an interpretation shall stay all proceedings in furtherance of the interpretation appealed, including the issuance of a building

permit, unless the Director of Buildings and Inspections certifies to the Zoning Board of Appeals after the notice of appeal has been filed that a stay would cause substantial damage to life or property. In such case, the proceedings shall not be stayed other than by a majority vote of the Zoning Board of Appeals

(c) **Administrative Applications.** The Director of Buildings and Inspections is authorized to issue building permits and other administrative certificates and permits pursuant to Chapter 1441, Application Procedures, Permits and Certificates.

JUSTIFICATION:

The City currently does not have a formal policy or procedure for processing interpretations. Often times, interpretations are made without input from various departments and final decisions are not distributed to City departments. This is particularly troublesome to the Planning Division when staff must provide consistent information to the public. Without knowledge of interpretations the public also cannot understand and apply the regulations accurately and consistently.

Item #15 was removed from the agenda so that the Law Department and the Department of Buildings & Inspections could further review and revise this amendment before the Commission reviewed and considered approval.

ITEM #16 §1439-07. Zoning Hearing Examiner

SUBJECT: Proposed text amendment for § 1439-07. Zoning Hearing Examiner

PROPOSED TEXT AMENDMENT:

§ 1439-07. Zoning Hearing Examiner.

Pursuant to Chapter 1443, the Zoning Hearing Examiner conducts public hearings and makes decisions, subject to appeal to the Zoning Board of Appeals, on applications for:

- (d) Variances;
- (e) Special exceptions;
- (f) Conditional uses; and
- (g) Extension or substitution of nonconforming uses;
- (h) Development permission in Hillside Overlay Districts;
- (i) Development permission in Urban Design Overlay Districts; and
- (j) Phased development in the DD District.

JUSTIFICATION:

The Zoning Hearing Examiner has the responsibility to make determinations on the three items listed as e, f and g above. These additions to §1439-07 will refine the Zoning Code and make it more user-friendly by providing a complete list of the Zoning Hearing Examiner's responsibilities in one location.

Motion: Mr. Mooney moved to accept staff recommendation
Second: Ms. McCray
Ayes: Faux, Hankner, McCray, Mooney, Rager and Tarbell
Nays: None, **motion carried**

ITEM #17 §1444. New Chapter for Cincinnati City Planning Commission Procedures

SUBJECT: Proposed text amendment adding §1444. Cincinnati City Planning Commission Procedures

PURPOSE:

To add a new section to the Zoning Code that standardizes noticing requirement for amendments to the Zoning Code, amendments to the Zoning Map, the sale or lease of city-owned property, review of Final Development Plans for Planned Development Districts and review of Major Amendment to Planned Development Districts. This amendment also enhances the existing noticing requirement for the creation of Interim Development Control Districts.

PROPOSED TEXT AMENDMENT:

Chapter 1444. CINCINNATI CITY PLANNING COMMISSION PROCEDURES

§1444-01. Purpose

The City Planning Commission has the following duties under the Zoning Code:

- (k) To review and approve, or report to Council reason for failure to approve amendments to the Cincinnati Zoning Code or the Zoning Map, pursuant to the Charter Article VII, § 6.
- (l) To review and approve or deny the sale or lease of city-owned property.
- (m) To approve, conditionally approve or deny Interim Development Control District permits, pursuant to the provisions of Chapter 1431, IDC Interim Development Control Overlay District.
- (n) To approve, conditionally approve or deny final development plans in Planned Development District applications, pursuant to the provisions of Chapter 1429, Planned Development District.

§1444-02. Application Procedures and Content

All applications for a decision by the City Planning Commission must be on forms specified by the Director of Community Development and Planning.

- (a) **Determination of Completeness of Application.** An application is submitted to the Director of Community Development and Planning. The director has the duty to determine whether the application is complete within five working days of receipt of an application. If the director determines that the application is not complete, the director has the duty to notify the applicant in writing, specifying the deficiencies of the application, including any additional information that must be supplied and that no further action will be taken by the City on the application until the deficiencies are corrected.
- (b) **Remedy of Deficiencies.** If the applicant fails to correct the specified deficiencies within 30 working days of the notification of deficiency, the application will be deemed withdrawn and will be returned to the applicant. The director, on written request, may for good cause shown and without any notice or hearing, grant extensions of the 30 working day time limit for remedying of deficiencies.
- (c) **Abutting Property Owners.** If notice to abutting property owners is required, the director will provide the names and addresses of all abutting property owners as they appear in the official records of the Auditor of Hamilton County within a 250-foot radius of the subject property.

§1444-03. Amendments to the Zoning Code

Any text amendments to the Zoning Code shall be processed in the following manner:

- (o) **Public Hearing.** The City Planning Commission has the duty to hold a public hearing on the application at a regular scheduled Planning Commission meeting. Notice of the hearing must be sent to the applicant, all Community Councils and any person requesting notice at least 21 days in advance of the public hearing. Notice must be published in the City Bulletin in advance of the hearing. Testimony at the hearing will be taken under oath and recorded and the project Planner responsible for preparing the advisory report must appear.
- (p) **Decision of The City Planning Commission.** The City Planning Commission has the duty to make a decision on the application within 14 days of the close of the public hearing. If the text amendment is disapproved, the reasons must be stated in writing as findings of fact and conclusions of law. The City Planning Commission has the duty to send its conclusions to all Community Councils, appropriate city officials and others who request a copy.
- (q) **Withdrawal of Applications.** The Community Council(s) shall be notified of a formal withdrawal of a text amendment if the request is made after the public was given notification of the proposed text amendment.

§14440-04. Amendments to the Zoning Map

Amendments to the Zoning Map shall be processed in the following manner:

(a) **Public Staff Conference.** A zoning staff conference shall be held by the project Planner and notices of such conferences to the public shall be made in the following manner:

- i. When there are 10 or less parcels proposed to be changed, notification shall be sent to property owners of record within the area of the proposed zone change, property owners within 250 feet of the boundaries of the subject property or to 15 adjacent property owners other than the petitioner, whichever is greater, and to the Community Council at least 10 days prior to the staff conference.
- ii. The project Planner or member of the Commission shall act as chairperson of the staff conference and shall direct a presentation of the petition and the relevant facts.
- iii. The chairman shall call upon the petitioner and opponents, if any, for their presentations.
- iv. The chairperson may ask questions to the petitioner and opponents and may allow reasonable rebuttals by the proponents and opponents.
- v. Staff shall take notes and produce minutes of the conference that shall be made available upon request.
- vi. Any documents presented at the staff conference shall be made a part of the record and shall be made available to staff for submission to the City Planning Commission

(r) **Public Hearing.** The City Planning Commission has the duty to hold a public hearing on the application at a regular scheduled Planning Commission meeting. Notification shall be sent to property owners of record within the area of the proposed zone change, property owners within 250 feet of the boundaries of the subject property or to 15 adjacent property owners other than the petitioner, whichever is greater, and to the Community Council at least 10 days prior to the public hearing. Notice must be published in the City Bulletin in

advance of the hearing. Testimony at the hearing will be taken under oath and recorded and the project Planner responsible for preparing the advisory report must appear. The applicant is permitted to be heard in person or through an attorney and may present evidence and cross-examine opposing witnesses.

- (b) **Decision of The City Planning Commission.** The City Planning Commission has the duty to make a decision on the application within 14 days of the close of the public hearing. If the text amendment is disapproved, the reasons must be stated in writing as findings of fact and conclusions of law. The City Planning Commission has the duty to send its conclusions to the applicant, all Community Councils, appropriate city officials and others who request a copy.
- (c) **Withdrawal of Applications.** When the petitioner formally withdraws a Zone Change application after the public has been sent notification of the proposed change, the public and the Community Council(s) shall be given notice of the petitioner's formal withdrawal.

§1444-05. Sale or Lease of City-Owned Property

- (a) Notice shall be provided for requests for the sale or lease of city-owned property to property owners within 250 feet of the boundaries of the subject property or to 15 adjacent property owners other than the petitioner, whichever is greater, and to the Community Council at least 10 days prior to the City Planning Commission Meeting.
- (b) Requests for easements across city-owned property do not require notification.

§1444-06. Interim Development Control Districts

- (a) **Public Hearing.** The City Planning Commission has the duty to hold a public hearing on the application at a regular scheduled Planning Commission meeting within 30 days of acceptance the advisory report prepared pursuant to § 1431-17. Notice of the hearing must be sent to the applicant, owners of record of adjoining properties within 250 feet of the boundaries of the subject property and any person requesting notice at least 10 days prior to the public hearing. Notice must be published in the City Bulletin in advance of the hearing. Testimony at the hearing will be taken under oath and recorded and the reviewer responsible for preparing the advisory report must appear. The applicant is permitted to be heard in person or through an attorney and may present evidence and cross-examine opposing witnesses.
- (b) **Decision of The City Planning Commission.** The City Planning Commission has the duty to make a decision on the application within 14 days of the close of the public hearing. The application may be approved, subject to conditions necessary to ensure that the development plan is lawful and in the public interest. If the application is disapproved, the reasons must be stated in writing as findings of fact and conclusions of law.

The failure of the proposed work to conform with any single factor is not necessarily a sufficient basis for denial. The City Planning Commission has the duty to approve an application that maximizes both the public interest and private benefits generally. The City Planning Commission has the duty to send its conclusions to the applicant, appropriate city officials and others who request a copy.

§1444-07. Planned Development Districts

- (a) **Zone Change for Planned Development Districts.** The City Planning Commission may recommend approval or conditional approval, with restrictions on the establishment of a PD District, as the Commission deems necessary for the protection of the public interest and to secure compliance with the development program statement.
- i. **Public Hearing.** The City Planning Commission has the duty to hold a public hearing on the application at a regular scheduled Planning Commission meeting. Notification shall be sent to property owners of record within the area of the proposed zone change, property owners within 250 feet of the boundaries of the subject property or to 15 adjacent property owners other than the petitioner, whichever is greater, and to the Community Council at least 10 days prior to the public hearing. Notice must be published in the City Bulletin in advance of the hearing. Testimony at the hearing will be taken under oath and recorded and the project Planner responsible for preparing the advisory report must appear. The applicant is permitted to be heard in person or through an attorney and may present evidence and cross-examine opposing witnesses.
 - ii. **Decision of The City Planning Commission.** The City Planning Commission has the duty to make a decision on the application within 14 days of the close of the public hearing. If the zone change is disapproved, the reasons must be stated in writing as findings of fact and conclusions of law. The City Planning Commission has the duty to send its conclusions to the applicant, the Community Council, appropriate city officials and others who request a copy.
 - iii. **Withdrawal of Applications.** When the petitioner formally withdraws a Zone Change application after the public has been sent notification of the proposed change, the public and the Community Council(s) shall be given notice of the petitioner's formal withdrawal.
- (b) **Final Development Plan Approval.** Following approval of a PD District with a concept plan and development program statement, a final development plan must be submitted to the City Planning Commission. A final development plan must be filed for any portion of an approved concept plan that the applicant wishes to develop and this plan has to conform substantially to the approved concept plan and Development Program Statement.
- i. **Public Hearing.** The City Planning Commission has the duty to hold a public hearing on the application at a regular scheduled Planning Commission meeting. Notification shall be sent to property owners of record within the area of the proposed zone change, property owners within 250 feet of the boundaries of the subject property or to 15 adjacent property owners other than the petitioner, whichever is greater, and to the Community Council at least 10

days prior to the public hearing. Notice must be published in the City Bulletin in advance of the hearing. Testimony at the hearing will be taken under oath and recorded and the project Planner responsible for preparing the advisory report must appear. The applicant is permitted to be heard in person or through an attorney and may present evidence and cross-examine opposing witnesses.

- ii. **Decision of The City Planning Commission.** The City Planning Commission has the duty to make a decision on the application within 14 days of the close of the public hearing. If the text amendment is disapproved, the reasons must be stated in writing as findings of fact and conclusions of law. The City Planning Commission has the duty to send its conclusions to the applicant, the Community Council, appropriate city officials and others who request a copy.
- (c) **Major Amendments.** Amendments to any final development plan other than a minor amendment may be approved only by the City Planning Commission, provided, however, that the City Planning Commission determines that such adjustments do not substantially alter the concept or intent of the approved final development plan. Amendments that change the uses allowed or materially change the density of the development require approval of Council as a zoning map amendment.
 - i. **Public Hearing.** The City Planning Commission has the duty to hold a public hearing on the application at a regular scheduled Planning Commission meeting. Notification shall be sent to property owners of record within the area of the proposed zone change, property owners within 250 feet of the boundaries of the subject property or to 15 adjacent property owners other than the petitioner, whichever is greater, and to the Community Council at least 10 days prior to the public hearing. Notice must be published in the City Bulletin in advance of the hearing. Testimony at the hearing will be taken under oath and recorded and the project Planner responsible for preparing the advisory report must appear. The applicant is permitted to be heard in person or through an attorney and may present evidence and cross-examine opposing witnesses.
 - ii. **Decision of The City Planning Commission.** The City Planning Commission has the duty to make a decision on the application within 14 days of the close of the public hearing. If the text amendment is disapproved, the reasons must be stated in writing as findings of fact and conclusions of law. The City Planning Commission has the duty to send its conclusions to the applicant, the Community Council, appropriate city officials and others who request a copy.

§1444-07. General Notification Requirements

- (a) Postcard and email notifications may be used whenever practicable.
- (b) Notices shall contain the location of the subject site(s); a brief description of the issue before the Planning Commission; the date, time and location of the Planning Commission hearing; the name and phone number of a contact person; a statement that interested parties may appear at the Public Hearing; and any other pertinent information that will provide the public with a basic understanding of the project or issue.
- (c) Staff shall may a good faith effort to maintain a website containing City Planning Commission Agendas and notification of staff conferences and Public Hearings.

§1444-08. By- Leave Items.

By-Leave items that are not on the agenda of the City Planning Commission and have not provided notice to the public are permitted to be heard only with a formal vote of the Planning Commission.

JUSTIFICATION:

The Planning Commission requested that staff review the noticing policies for the various responsibilities of the Commission and develop standard notice requirements to ensure that property owners and Community Councils are adequately notified of approvals being sought through the Planning Commission. Staff held three public meetings on this issue in January and February 2005. All Community Councils were invited to participate. Representatives from six Community Councils participated in the development of the proposed notice requirements.

Discussion

Ms. Dottie Carmen of the Law Department asked that the Commission consider if they wanted their noticing requirements codified by City Council.

Ms. Hankner pointed out that she was the instigator for requesting that there be policies for planning staff to follow regarding uniformed public notification, mailing notices in a timely manner, and who is to be notified. She stated that the purpose was to eliminate complains from citizens that come before the Commission stating that they never received any notice.

Ms. Wuerstle stated that Planning staff notified the 52 neighborhood-community councils and met four times with the community councils to discuss noticing issues. The Community Councils asked that the noticing requirements be codified. When item was pulled from the agenda, a second notice was sent to 450 interested parties. Therefore, any discussion or decision on this item should be held until the notices are sent out again advising interested parties that this item is back on the table.

Mr. Faux stated that he could give argument that only the noticing requirements should be codified so that everyone knows what the requirements are. He said that it was different than codifying the entire rules and procedures of the Planning Commission within the zoning code.

Mr. Ulebacher stated that he served on the committee and the objective was to establish a standardized procedure regarding who is notified and also to make all noticing procedures uniformed. He inquired on when Items #9 and #13 would come back before the Commission.

Mr. Rager suggested that the items concerning the Outdoor eating and drinking issue be brought back to the Planning Commission on December 2, 2005 and that the Sign Chapter could be discussed at the second meeting in December.

Ms. Kraus stated she is a representative for the North Avondale Association and the Cincinnati Zoning Task Force. She stated that they were in support of the items on the agenda and she felt that the Public Nuisance regulations should be addressed. The definition that was proposed was adequate and she did not understand why it was removed from the agenda. She stated that the other concern was the Administration Interpretations amendment. Since there is no codified procedure for interpretation, the North Avondale has been in court on such issues. She stated that the Department of Buildings and Inspection had made a decision and when North Avondale was finally informed, it was too late to be appealed. She requested that both items #10 and #15 are included on the next Commission meeting for discussion.

Item #17 was removed from the agenda so that the Law Department and the Department of Buildings & Inspections could further review and revise this amendment before the Commission reviewed and considered approval.

OTHER BUSINESS

ITEM #18 An update on a zoning study of the commercial zoning districts at the intersection of Paxton Avenue and Wasson Road in Hyde Park and Oakley.

Katherine Keough-Jurs, Senior City Planner, presented this report

BACKGROUND:

On August 5, 2005, City Planning Commission received a report and recommendation on a zoning study of the commercial zones at the intersection of Paxton Avenue and Wasson Road, which spans the neighborhoods of Hyde Park and Oakley. The goal of the study was to change the existing zoning to CN-P, CN-M, CC-P, or whatever designation is most appropriate in order to protect this area and assure that the zoning is compatible with the surrounding neighborhood.

Staff recommended three changes at this intersection: a change from CG-A Commercial General-Auto and ML Manufacturing Limited to SF-6 Residential Single Family District along the street centerline of Wasson Road between Paxton Avenue and Eastern Hills Lane; a change from CG-A Commercial General-Auto to CC-P Commercial Community-Pedestrian at the intersection of Wasson Road, Isabella Avenue, and Paxton Avenue; and a zone change from CN-P Commercial Neighborhood-Pedestrian to OL Office Limited at 2872 and 2874 Wasson Road, on the north side of Wasson Road between Monteith Avenue and Drake Road. City Planning Commission approved those three changes, and in addition, approved a fourth change from CC-A to CC-P on the north side of Paxton Avenue between Isabella Avenue and Mount Vernon Avenue. The first three recommended changes were adopted by Cincinnati City Council on September 8, 2005. City Council denied the fourth change on September 21, 2005.

The Commission also discussed two other potential changes: from OL to SF-4 on the north side of Paxton Avenue between Mount Vernon Avenue and Ferdinand Place, and a change from CN-P to RMX on the north side of Wasson Road between Drake Road and Drakewood Drive. The Commission asked Staff to continue to study these two potential changes. At the Commission's request, Staff returned at the next meeting with an update. As the Oakley Community Council did not vote to approve those two changes, Staff recommended that they be given the opportunity to discuss the proposed changes at their next meeting.

UPDATE:

The Oakley Community Council discussed the two remaining zone changes at their regularly scheduled meeting on September 6, 2005. After some discussion, the Oakley Community Council again voted to recommend no change at this time on the north side of Paxton Avenue between Mount Vernon Avenue and Ferdinand Place or on the north side of Wasson Road between Drake Road and Drakewood Drive. Their reason is that there are many conflicting issues surrounding these two locations, and therefore they would be best discussed in the context of a more comprehensive study such as a community land use plan. The Oakley Community Council is currently in the process of petitioning City Council for funding for a neighborhood-wide comprehensive land use study in 2006.

Because of this outstanding request, Staff again recommends that no zone changes be recommended at this time on the north side of Paxton Avenue between Mount Vernon Avenue and Ferdinand Place or on the north side of Wasson Road between Drake Road and Drakewood Drive.

No Planning Commission action was required on this item.

ITEM #19 An update on Doerr Alley lease to Tender Mercies pertaining to Ensemble Theatre.

Jennifer Walke, Senior City Planner, presented this report

Jennifer Walke reminded the Commission of the October 7, 2005 voted to approve a portion a lease for a portion of Doerr Alley to Tender Mercies. In addition, Council Member Mr. Tarbell requested that staff contact Ensemble Theatre and find out if the approval of the lease would affect their plans. Mr. Rick Diehl assured her that neither the lease nor the gates interfere with the Theatre expansion plans for the site.

Ms. McCray left at 10:45 am

No Planning Commission action was required on this item.

ITEM #20 FYI Presentation of Gregory Center Concept
Developer is considering a zone change request to PD for the site located on E. Pete Rose Way.

Mr. Chad Munic, Economic Development Director, stated that the presentation was being presented in response to the Commissions' request that projects are brought before them in advance rather than after any official action is taken. He informed the Commissioners that the City entered into an agreement with the Gregory family two years ago. He stated that the City and the Gregory family would like to develop land near the Purple People Bridge along Pete Rose Way. A request for a PD covering the south side of the land and the north side of Pete Rose Way will be submitted after the Commission meeting.

Mr. Dave Rose gave a power point presentation on the proposed project. He stated that the project would enhance downtown and would produce business opportunities and as well as residential opportunities. The project is a mix-use and would provide 350 permanent jobs. The buildings will be placed perpendicular with a view of both the skyline and the river.

Mr. Mooney left at 11:00am.

Mr. Edward Dillard, attorney, expressed his angry over not being given notification concerning this presentation. He was aware of the development but was not aware that it was being presented before the Commission on this particular day. He said that this plan affects property that his clients are interested in. He went on to explain his views concerning the concept plan and felt it was not an interesting proposal. He stated that he had conversations with City staff concerning his client's interest in the L & N loop, and the City had three concerns; pedestrian sidewalks, some kind of height restriction and parking on the site. This proposal drastically affects the property on the north side, which is adjacent to property owned by his client. His client invested in this area much earlier than any one else and is not only willing but also prepared to develop an office building that would bring extensive revenue to the city.

He stated that through the PD process the Gregory family wants to control property that they do not own. They have had a chance to develop for years and yet, no development has occurred.

He also stated that it was stated that there would not be much of a subsidy for this project. He believed that the City's donation of that particular property is a huge subsidy. He felt that the City staff has been disingenuous with him and his affiliates concerning this development, and the presentation at this meeting.

Mr. Faux asked if his client developed the office building to the east of the city site. He stated he was correct and also the OKI building and the parking lot that is adjacent to the L & N Loop. He said that his clients were promised this development site in 2002.

OTHER BUSINESS

Ms. Elizabeth Milward with the Mt Adams Zoning Committee stated that they have a problem with the new zoning code. The new code has removed property expansion rights from nearly half of the

homeowners in the new SF districts in Mt Adams. She stated that Mr. Ellis, one of the owners, had asked permission from the City to add 6 ft in height to his property for a garage.

He was turned down and found out that his property is now considered a non-conforming use in the SF district and therefore, can not be expanded. He came to the Mt Adams Zoning Committee to explain the situation and they were shocked because 45% of the properties in the area are two-family and three-family homes.

Ms. Milward wants to remodel her two-family home but she can not under the circumstances. She spoke with Margaret Wuerstle and was told that her only recourse would be a zoning text amendment.

Motion: Ms. Hankner made a motion for staff to commence a zoning text study to determine how the zoning code could be amended to all on the upgrade and expansion of two-family structures in single-family districts as long as no new units were created.

Second: Mr. Tarbell

Ayes: Mr.Faux, Mr. Rager, Ms. Hankner, and Mr. Tarbell

Nays: None, **motion carried**

ADJOURN

Motion: Ms. Hankner motioned to adjourn

Second: Mr. Tarbell

Ayes: Mr.Faux, Mr. Rager, Ms. Hankner, and Mr. Tarbell

Nays: None, **motion carried**

Margaret A. Wuerstle, AICP
Chief Planner

Caleb Faux, Chair

Date: _____

Date: _____